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# SANITARY LAW.



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# SANITARY LAW:

A DIGEST OF THE SANITARY ACTS OF  
ENGLAND AND SCOTLAND,

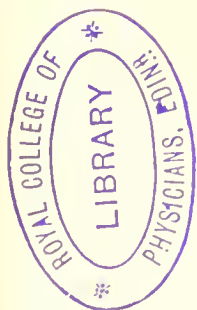
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TO

WILLIAM PULLEY,

THIS SHORT DIGEST OF THE SANITARY LAWS OF HIS COUNTRY

IS GRATEFULLY INSCRIBED BY

The Author.



## P R E F A C E.

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THE following pages contain the substance of a course of lectures on Sanitary Law delivered in the Extra-Mural Medical School, Edinburgh. The lecture form has not been retained, the sections of the Acts being given in order to facilitate reference. The questions at the end, it is hoped, will enable the reader to readily find the information he requires, and to fix it on his memory.

27 CHALMERS STREET,  
EDINBURGH, 1883.

## LIST OF ACTS GIVEN.

Public Health (Eng.) Act 1875	Artizans and Labourers Dwell-
The Rivers Pollution Act 1876.	ings Act, 1868.
Sale of Food and Drugs Act	Artizans and Labourers Dwell-
1875.	ings Improvement Act, 1875
Vaccination Acts, 1867-1871.	Public Health (Water) Act 1878
Bakelhouse Regulation Act 1863	Public Health (Scot.) Act 1867
Alkali Acts, 1863-1874.	Canal Boats Regulations.

## ABBREVIATIONS.

L.A.,—Local Authority.	L.C.C.A.—Lands Clauses Con-
L.G.D.—Local Government	solidation Acts.
District.	M.B.W.—Metropolitan Board
P.O.—Provisional Order.	of Works.
O.—Order.	P.H.S.A.—Public Health Scot-
L.G.B.—Local Government	land Act.
Board.	P.H.I.A. 1874 —Public Health
I.C.—Improvement Commis-	Ireland Act.
sioners.	I.C.L.H.—Inspector of Com-
L.B.—Local Board.	mon Lodging-Houses.
E.C.—Earth Closet.	I.P.—Inspector of Poor.
C.P.—Cesspool.	P.H.W.A.—Public Health
I.A.C.—Improvement Act	Water Act.
Commissioners	P.W.L.C.—Public Works
W.C.—Water-Closet.	Loan Commissioners.
P.—Privy.	N.R.A.—Nuisance Removal
A.P.—Ashpit.	Act.
M.O.H.—Medical Officer of	J.P.—Justice of the Peace.
Health.	I.A.D.—Improvement Act
S.A.—Sanitary Acts.	District.
I.N.—Inspector of Nuisances.	R.D.—Rural District.
S.I.—Sanitary Inspector.	U.D.—Urban District.
S.—Surveyor.	P.S.A.—Port Sanitary Au-
M.M.A.—Metropolitan Man-	thority.
agement Act.	L.G.A.—Local Government
U.A.—Urban Authority.	Act.
R.A.—Rural Authority.	C.L.H.—Common Lodging-
L.G.A.—Local Government	House.
Acts.	

## INTRODUCTORY.

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PRIOR to the year 1848 little had been done by way of legislation for the improvement and maintenance of the Public Health of this country. Some protection was, however, from early times afforded to the health and comfort of the people by the common law, and by occasional statutes, while the sheriffs' tourn and courts leet exercised some local jurisdiction over nuisances. The 12 Richard II. c. 13, passed in 1388, imposed, in those days, the heavy penalty of twenty pounds on persons who cast filth and refuse into rivers and ditches, yet the Public Health Act of 1848 permitted, and even compelled the emptying of town sewerage into rivers. Another Act passed in the reign of Henry the Seventh, 4 and 5, Hen. VII. c. 13, after reciting the nuisance arising from certain shambles in the City of London, near St Paul's, "to the jeopardous abiding of the King's most noble person, and the even great annoyance of the parishoners and others," enacted, that no butcher shall slay any manner of beast within the walls of London, or any walled towns. This Act, passed in 1489, was not repealed till 1856. The Statute of Sewers, passed in 1532, during the reign of Henry VIII.—23 Hen.

VIII. c. 5—for the prevention of damage arising from floods, and for cleansing and purging trenches, sewers, and ditches, authorised the issue of Commissioners of Sewers, at the discretion of the Lord Chancellor, the Lord Treasurer, and Chief Justices. The Court Rolls of Stratford-upon-Avon record that in 1552 Shakespear's father was fined for violating the laws of the manor by depositing filth in the public street, and a second time in 1558 for not keeping his gutter clean. To meet special exigencies, sanitary acts were passed in succeeding reigns till the year 1848, when the first Public Health Act was passed, which created a new central authority called the "General Board of Health," which consisted of a president and two other members, who had power to appoint inspectors and a staff of officers. This Board, the existence of which was limited to five years, in 1854 was so re-constructed as to be composed of a paid President, the Secretaries of State, and the President and Vice-President of the Board of Trade. They were also empowered by an Act passed in 1855 to appoint a paid Medical Officer, who subsequently, under the Privy Council, became the Health Minister. In 1858 the General Board of Health expired quietly, and was succeeded by the Privy Council, to whom some of its functions were transferred, especially those for making regulations for the prevention of epidemic and contagious diseases. From this date till 1871 a chaotic state of things existed, and the functions of the extinct Board were variously and inexplicably distributed between the Privy Council, the branch of the Home Office known as the Local Government Acts Office, and the Poor Law Board.

In 1871 the Local Government Board Act was passed which abolished the Poor Law Board, placing the Local Government Board in its place, and transferring to the new Board all the powers of the Old Poor Law Board, together with those exercised by the Privy Council and the Home Office under the sanitary statutes, thus collecting, in one grasp, all the scattered threads of central sanitary administration. The Local Government Board thus forms the central bureau under which every sanitary authority is *obliged* to appoint a medical officer of health, who may also be the medical officer of the union in rural districts. The Public Health Act of 1875 is a great improvement on previous sanitary legislation, its chief weakness being due to the permissive character of many of its enactments, the word "may" being far too frequently translated by Local Authorities into "may not." A detailed account of those sections, a knowledge of which is absolutely necessary for every Medical Officer of Health, will be given in the following pages. First, then, let us return to the Local Government Board, which is constituted as follows:—A paid President appointed by Her Majesty, the Lord President of Her Majesty's most honourable Privy Council, all the Principal Secretaries of State for the time being, the Lord Privy Seal, and the Chancellor of the Exchequer, a Parliamentary Secretary and a permanent Secretary. Attached to it are a Medical Officer and several medical, legal, and scientific inspectors, and other officials. Besides assuming all the powers and duties of the old Poor Law Board as far as England is concerned, and all those which, before its creation,

Sec. devolved upon the Privy Council or Secretary of State, it has the general supervision of the Acts of all Local Authorities, and holds those powers also under the Alkali Acts formerly exercised by the Board of Trade. The Board relieves the Home Secretary of his duties with regard to turnpike roads, highways, paths, &c., in England and Wales; superintends the registration of births, deaths, and marriages, and vaccination, and issues regulations and suggestions for the prevention of epidemic diseases, and exercises a general supervision over all sanitary matters; and lastly, has something to say on local taxation as far as the Home Secretary is concerned. The Public Health Act, 1875, further gives permission to the Board, by provisional order, to make alterations in existing sanitary areas, either by dissolving them, or by merging one district into another; or, by provisional order, declare a rural district to be a local government district, and divide such district into wards for the election of members of the local board; and, on petition of owners and ratepayers, to settle the boundary of any district not having a known and defined boundary for the purposes of the Act; and in case there is any objection raised as to the construction of such local government district by not less than one-twentieth of the owners and ratepayers, the Local Government Board may, after local enquiry, make an order with respect to the matter in question. The Board may also, on application, invest a rural authority with urban powers. When any portion of the salaries of Medical Officers, who must be qualified medical men, and Sanitary Inspectors are paid by the

Government, the Board has power to confirm or reject their appointment, to define their duties, and determine their salaries. When this is not the case the Board have still the power, by order, to define their qualifications and duties. Sec.

If a L.A. is remiss in any of the following duties :— 239  
 (a) Providing sufficient sewers ; (b) Maintaining existing sewers ; (c) Providing proper water supply when such can be obtained at a reasonable cost ; (d) Or any of the duties imposed upon them by this Act, the Board on complaint, and after due enquiry, can enforce the proper performance of such duties by the defaulting authority, or appoint some person to remedy the evil, recovering the expenses from the L.A. by application to the Court of Queen's Bench. The Board may also from time to time cause local enquiries to be made in relation to such matters as appertain to the public health as directed by the Act.

The following are some of the matters about which such enquiries may be made :—(a) The construction of 31  
 sewage works without the district of L.A., when an objection has been raised to such works ; (b) The con- 53  
 struction of large reservoirs where objection is made to them ; (c) The purchase of lands otherwise than by 176  
 agreement ; (d) The borrowing of money by L.A. above 234  
 a certain amount ; (e) The settlement of boundaries of 252  
 places not having a defined or known boundary ; (f) 273  
 The constitution of a L.G.D. when a petition is presented against it ; (g) Where the validity of the vote for 274  
 a L.G.D. is disputed ; (h) In disputes respecting the boundaries of the districts of L.C. or L.B. ; (i) The 277  
 making of P.O. where the subject matter requires a

Sch. ii. 6 local inquiry; (j) The division of any district into wards.

The enactments of the L.G.B. are enforced by provisional orders, and also through "orders." The regulation of the salaries and duties of the officers of Sanitary Authorities, the union of two or more districts for the joint appointment of a M.O.H., and the  
 Sec. 295 general routine business of sanitary authorities, and the cost of inquiries or proceedings by, or of appeals to the Board, may be dealt with by "orders," without recourse to provisional orders, except in case of opposition; and all "orders" made by the L.G.B. shall be binding and conclusive in respect of the matters to  
 294 which they refer. The orders with regard to the cost of enquiries may be made a rule of one of the superior courts of law on the application of any person named  
 297 therein. The provisional orders of the Board are of no force until confirmed by parliament; they then become virtually Acts of Parliament; but in any case, even before confirmation, they cannot be reviewed by any court. The order for a special purpose is granted on petition by a L.A., or by the owners or ratepayers of a district, and then introduced into a bill, which  
 297 (4) is passed through both Houses of Parliament by the L.G.B., unless there is any objection raised against it, when it is referred to a select committee, and is subjected to all the incidents attending a private bill. The petitioners must then employ council and parliamentary agents, and produce witnesses in support of  
 267 (6) the provisional order, thus taking entire charge of the bill. The L.G.B. may revoke, either wholly or partially, any provisional order made by them before the same

is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament. Any Act confirming any P.O. made in pursuance of any of the Sanitary Acts, or of the P.H.A., and any Order in Council made in pursuance of any of the S.A., may be repealed, altered or amended by any P.O. made by the L.G.B., and confirmed by Parliament. Certain preliminaries have to be gone through in obtaining a provisional order; thus, notice of the purport of the proposed order must be given by advertisement for two successive weeks in some of the local papers; an inquiry may be held, of which due notice must also be given by advertisement, and the making of such order shall be evidence that the proper steps have been taken.

The following are the subjects with regard to which the L.G.B. are authorised to issue provisional orders:—(a) The manufacture and supply of gas by the L.A.; (b) The purchase of land otherwise than by agreement; (c) The abolition of exemption from general district rates; (d) The alteration of U. and R. districts; (e) The dissolution of special drainage districts; (f) The construction of a R.D. into a L.G.D.; (g) The union of districts; (h) To constitute a L.A. whose district forms part of, or abuts on, a part of a port in England into a Port Sanitary Authority; (i) The alteration of confirmed provisional orders; (j) The alteration or repeal of local acts other than an act for the conservancy of rivers; (k) The settlement of accounts and disputes arising out of the transfer of powers and duties to or from L.A.; (l) The repeal or

Sec.

297 (5)

297 (1)

297 (7)

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Sch II. 6 alteration of an order in council, or provisional order constituting a L.B. under the P.H. 1848; (m) The division of districts into wards.

Provisional orders may also be made under the Artizans and Labourers Dwellings Improvement Act, 1875.

All by-laws made by a L.A. must first be sanctioned by the L.G.B. before their provisions can be enforced.

Passing from a consideration of the constitution, functions and duties of the Supreme Authority in sanitary matters in England, as exemplified in the Local Government Board, we have now to consider the functions and powers of those minor authorities to which are entrusted the carrying out of the provisions of the Public Health Act, and other Acts more or less connected with the protection and maintenance of the public health.

Sec. 5 The P.H.A., 1872, divided the whole of England, except the Metropolis, into Urban and Rural Sanitary districts, and this division is maintained by the P.H.A. 1875, the respective districts being subject to the jurisdiction of local authorities and rural sanitary authorities.

6 An Urban district and authority are given in the following table—

URBAN DISTRICT.	URBAN AUTHORITY.
Borough constituted such, either before or after the passing of this Act.	<div data-bbox="707 1392 980 1552" style="display: inline-block; vertical-align: middle;"> <span style="font-size: 3em; vertical-align: middle;">{</span> <div style="display: inline-block; vertical-align: middle;"> The Mayor, Aldermen and Burgesses, acting by the council. </div> </div>

## URBAN DISTRICT.

## URBAN AUTHORITY.

Improvement Act district constituted such	}	The Improvement Commissioners.
before the passing of this Act, and having no part of its area situated within a borough or local government district.		
Local Government district, constituted such either before or after the passing of this Act, having no part of its area situated within a borough, and not coincident in area with a borough or Improvement Act district.	}	The Local Board.

To decrease the number of authorities, and thus obviate confusion, provision is made—

1. That any borough, the whole of which is included and forms part of L.G.D. or I.A.D., and any I.A.D. which is included in and forms part of a L.G.D., and any L.G.D. which is included in and forms part of an I.A.D., shall for the purposes of this Act be deemed to be absorbed in the larger district in which it is included, or of which it forms part; and the Improvement Commissioners or Local Board, as the case may be, of such larger district, shall be the U.A. therein; and

2. Where I.A.D. is coincident in area with a L.G.D., the Improvement Commissioners, and not a L.B., shall be the U.A. therein; and

3. Where any part of I.A.D. is situated within a borough or L.G.D., or where any part of a L.G.D. is situated within a borough, the remaining part of such I.A.D., or of such L.G.D., so partly situated within a borough, shall, for the purposes of this Act, continue subject to the like jurisdiction as it would have been subject to if this Act had not been passed, unless and until the L.G.B., by provisional order, otherwise directs.

For the purposes of this Act the boroughs of Oxford, Cambridge, Blandford, Calne, Wenlock, Folkestone, and Newport (Isle of Wight), shall not be deemed to be boroughs, and the borough of Cambridge shall be deemed to be an I.A.D., and

Sec. the borough of Oxford to be included in the L.G.D. of Oxford. So much of the borough of Folkestone as is not included within the L.G.D. of Sandgate shall be an U.D., and shall be under the jurisdiction, for the purposes of this Act, of the authority for executing "The Folkestone Improvement Act, 1855."

- 7 Local Boards and Improvement Commissions shall be incorporated with the name they bore at the time the Act was passed, or by such name as they may with the sanction of the L.G.B. adopt; they shall have a common seal with power to sue, or be sued, and to hold lands without any license in mortmain for the purposes of this Act. The members of the Local Boards shall be elective, the number so elected being
- Sch. ii. 1 determined by the order forming the district, but
- ii. 2 the L.G.B. may, from time to time, by order, and after local enquiry, increase or diminish the number of
- ii. 3 members of any L.B. The qualifications necessary for a member of a L.B. are, that he be resident, at the time of his election and during his tenure of office, within the district for which he is elected, or within seven miles of it. He must also, in districts of less than 20,000 inhabitants, possess real or personal estate of not less than £500, and £1000 in those of 20,000 or more; or be rated to the relief of the poor of the district, or of a parish within the same on an annual value of not less than £15 in the first case, and not
- ii. 4 less than £30 in the second. Two or more persons possessed of property which, if divided, would give each the property qualification, are eligible as members; and
- ii. 5 the same with regard to the rating qualification. A person who is a bankrupt, or whose affairs are under liquidation by arrangement, or has entered into a com-

position with his creditors, shall not be eligible as long as such proceedings are pending. The chairman in an existing board, if not himself a candidate, or too ill to attend—in which case the board may appoint some one to perform his duties—or the person nominated by the L.G.B. in a newly constituted authority, is the returning officer. His duties are to publish a notice of every election of members, the number and qualification of the persons to be elected, regulations as to nomination papers, the collection of voting papers, and, in case of a contest, the mode of voting. If the number nominated and duly qualified are equal to the vacancies, they are elected, but if there are more nominated than there are vacancies, then an election must take place, unless some withdraw. Voting papers are issued to each qualified elector, and collected three days after issue by persons, generally policemen, appointed to do so by the returning officer. If a person entitled to vote have not received a voting paper, he must apply personally to the returning officer, and in his presence fill up the form supplied. On the day following that of collection, and on subsequent days, if necessary, the returning officer casts up the votes, those having the greatest number of votes being duly elected. The results of the election, certified by the returning officer, have to be laid before the Local Board at their next meeting. A candidate may appoint an agent to be present at the counting of the votes, but such agent must not interfere, or he may be turned then and there out of the room. Members, on taking their seat at the Board, have, in the presence of two or more members, to sign a declaration of the nature of their qualification, which

Sch.ii.3C

is to be kept by the clerk of the Board. One third of the members retire every year, being those who have been longest in office, but, if qualified, they are eligible for re-election. A member may become disqualified from any of the following causes :—

(a) Ceasing to hold his qualification ; (b) Becoming bankrupt or going into liquidation, or compounding with his creditors ; (c) Being absent, except from illness, for more than six consecutive months ; (d) Taking any office of profit under the board ; (e) Entering into any bargain or contract with the board, or work done from which any profit may arise.

Provided that no member shall vacate his office by reason of his being interested in the sale or lease of any lands, or in any loan of money to the board ; or.

By reason of his being interested in any contract with the L.B., as a shareholder in any joint-stock company, but he shall not vote at any meeting of the L.B., on any question in which such company are interested, save that in the case of a water company, or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the L.G.B.

The scale of qualification of ratepayers and owners is regulated by the Sturges Bourne's Act, as follows :—

When the rateable is	.	.	.	under £50	—1 vote.
„				over £50 and under	100—2 votes.
„			100	„	150 - 3 „
„			150	„	200 - 4 „
„			200	„	250—5 „
„			250		—6 „

No one shall be entitled to vote as a ratepayer unless he has been rated to the poor for at least one year before the voting day, and has paid all the rates to which he is liable.

A chairman with a casting vote is elected at the

Sec.

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first meeting of the Board, and in his absence some other member may be selected to act for him. The meetings must be held at least once a month, one-third of the members forming a quorum. The board being duly constituted may then proceed to elect the necessary officers to carry on their business. It has power also to appoint committees to whom it may delegate some of its duties, but their minutes and acts should be confirmed by the Board. In boroughs, the town council becomes the Local Board; there is, therefore, no special election of the Local Board as such, but the town council elected in the usual way becomes, under the P.H.A., the Local Board. Improvement commissioners are elected in accordance with the provisions of the local Acts constituting an I.A.D., but on repeal of the local Act they may adopt the mode of election, &c., required in the P.H.A. The Port Sanitary Authority is an existing sanitary authority with Port Sanitary powers.

The Rural Sanitary authorities in England are in all cases the Boards of Guardians, which boards are composed of *ex officio* members who are the Justices of the Peace residing in the parish, and acting for the county division or riding in which the parish is situated, and a certain number of elected guardians elected very much in the same manner as members of local boards, but regulated by the Poor Law Acts. They can act by committees as other boards, and by parochial committees in contributory places; and such committees are held to be the agents of the authority which formed it in the contributory place, and in incurring expenses for such place. Rural authorities may also be endowed

Sec. with urban powers. The powers exercised by urban authorities relate to the sewerage and drainage of their district, supervision of streets, roads, buildings, markets, water supply, and the carrying out of the Bakehouse Regulation Act, the Artizans and Labourers Dwellings Act, the Baths and Wash-houses Acts, and the Labouring Classes Lodging Houses Acts, or any of them which are in force within the district, or when not in force the U.A. may adopt them, when they then become responsible for the proper carrying out of their provisions. In Rural Districts the control of sewers, the supervision of streets and roads, are under the control of highway boards, surveyors of highways or turnpike trusts; and the powers contained in the Local Government Acts with regard to the width of streets and the regulation of buildings are not, however, conferred on rural authorities, their functions being confined to the providing of a water supply, preventing or removing nuisances, removing filth, regulating common lodging houses, taking the necessary precautions for the prevention and spread of epidemic diseases, and supervising bakehouses as required by the Act.

288 The duties and functions of a Port Sanitary are very varied and important. Its jurisdiction extends over all waters within the limits of such port, and also over the whole of such portions of the district within the jurisdiction of any riparian authority, as may be specified in the order forming the authority. The duties consist in examining ships or vessels entering the port, and in the case of any infectious or contagious disease being present, to detain such ship at some place appointed by the Sanitary Authority, and to take measures for

the proper care and treatment of the sick, and the thorough disinfection of the vessel. The mayor, aldermen, and commons of the City of London are the Port Sanitary Authority for London.

In the P.H.A. the Metropolis is omitted, it having a jurisdiction of its own conferred by special acts. The Metropolis includes the City of London and all parishes and places mentioned in schedules to the Metropolis Management Act 1855. These are as follow—

KENT.—*Unions*.—Greenwich, Lewisham, and Woolwich.

MIDDLESEX.—*Unions*.—Fulham, Hackney, Holborn, Poplar, St George's, City of London, Stepney, Strand, Westminster, and Whitechapel.

*Parishes*.—Bethnal Green, Chelsea, Hampstead, Islington, Kensington, Mile-end Old Town, Paddington, St George's-in-the-East, St Giles'-in-the-Fields, and St George's Bloomsbury; St Marylebone, St Pancras, and Shoreditch.

SURREY.—*Unions*.—St Olave's, St Saviour's, Wandsworth, and Clapham.

*Parishes*.—Camberwell and Lambeth, also the Inner and Middle Temple and Gray's Inn.

The City of London proper, for certain purposes, is governed by a special commission of sewers; but by the Metropolitan Management Act 1855, the city and the rest of the metropolis is divided into unions and parishes just mentioned. The parishes are governed by vestries, the members of which are elected by the ratepayers in each parish. Each vestry elects a certain number of its members to form a District Board, who act as the L.B. for the district. From these boards the Metropolitan Board of Works is composed, each District Board sending one or more representatives to

M.M.A.  
1855.

Sec. 35

45

Sec. 135 the Central Board. The Metropolitan Board of Works  
141 is the sewer authority, and has power over the streets and buildings in the metropolitan area. Its sanction must be obtained before any alterations and improvements in these can take place. The Board may make by-laws for—

(a) Regulating the level, width, &c., of streets, and the nature of the material to be used for streets.

(b) The dimensions, form, and mode of construction of sewers, &c.

(c) The repairing and cleansing of sewers, drains, &c.

(d) Other purposes for which by-laws are usually made.

It is permitted to spend £50,000, but not more without the consent of the Commissioners of Her Majesty's Works and Buildings, and if more than £100,000 is required, an Act of Parliament must be obtained.

# SANITARY LAW.

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## PUBLIC HEALTH ACT, 1875.

From this brief sketch of the progress of Sanitary Sec.  
Law in England, we will pass on to take somewhat  
in detail the several sections of the P.H.A. 1875.  
This Act, passed in 1875, is divided into eleven parts  
and 343 sections, besides having five schedules ap-  
pended. It consolidates, as far as England is concerned  
—exclusive of the Metropolis—the whole of the  
Sanitary Acts, with the following exceptions:—

1. The Bakehouse Regulation Act.
2. The Artizans and Labourers Dwellings Act.
3. The Baths and Wash-houses Acts.
4. The Labouring Classes Lodging Houses Acts.

The Acts thus consolidated are, of course, repealed,  
but the duties of Sanitary Authorities under them are 326  
not affected, and officers appointed by them still hold  
their appointments as if the Acts were still in existence,  
besides, all existing rights and liabilities under the  
former enactments are still maintained. The Act. 2  
further, does not apply to Scotland or Ireland. The 4

following are a few of the more important words and expressions, the meanings of which are given in the preliminary part of the Act:—

“BOROUGH” means any place for the time being subject to the Act 5 and 6 Will. IV. c. 76, and any amending Act.

“THE METROPOLIS” means the City of London and all parishes and places mentioned in schedules A. B. C. to the Metropolis Management Act, 1855.

“LOCAL GOVERNMENT DISTRICT” means any area subject to the jurisdiction of a L.B. constituted in pursuance of the L.G.A. before the passing of this Act, or in pursuance of this Act, and “LOCAL BOARD” means any board so constituted.

“IMPROVEMENT ACT DISTRICT” means any area for the time being, subject to the jurisdiction of any Improvement Commissioners.

“IMPROVEMENT COMMISSIONERS” means any commissioners, trustees, or other persons invested by any local act, with powers of town government and rating.

“PARISH” means a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.

“UNION” means a union of parishes incorporated or united for the relief or maintenance of the poor under any public or local act, and includes any parish subject to the jurisdiction of a separate board of guardians.

“GUARDIANS” means any persons, or body of persons, by whom the relief of the poor is administered.

“LOCAL AUTHORITY” means U.L.A. and R.L.A.

“SURVEYOR” includes any person appointed by R.A. to perform any of the duties of surveyor under this Act.

“STREET” includes any highway (not being a turnpike road), and any public bridge (not being a county bridge), and any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not.

“HOUSE” includes schools, also factories and other buildings in which more than twenty persons are employed at one time.

“DRAIN” means any drain of, and used for the drainage of, one building only, or for premises within the same curtilage—court-yard, backside, or piece of ground lying near to a dwelling-house—and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed.

“SEWER” includes sewers and drains of every description, except drains to which the word “drain” interpreted as aforesaid applies, and except drains vested in, or under the control of any authority having the management of roads, and not being a L.A. under the Act.

“SLAUGHTER-HOUSE” includes the buildings and places commonly called slaughter-houses and knackers’ yards, and any building or place used for slaughtering cattle, horses, or animals of any description for sale.

“WATER COMPANY” means any person, or body of persons, corporate or unincorporate, supplying, or who may hereafter supply water for his or their own profit.

“WATER WORKS” includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines, and all machinery, lands, buildings, and things for supplying or used for supplying water, also the stock-in-trade of any water company.

“COURT OF SUMMARY JURISDICTION” means any justice or justices of the peace, stipendiary or other magistrate, or officer by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts, or any Acts therein referred to.

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## TABLE GIVING THE GENERAL POWERS AND DUTIES OF U.A. WITH REGARD TO SEWERAGE AND DRAINAGE.

*Powers.*—Control of all sewers and buildings belonging thereto; to purchase or make sewers; alter or

Sec. discontinue sewers; prepare map of sewerage system; to enforce drainage of undrained houses into new sewers when required; disposal of sewage; to construct works for the storing, disinfecting and distributing sewage; to supply sewage to any one requiring it; to obtain and deal with land for disposal of sewage; to communicate sewers with sewers of adjoining district; to enforce proper w.c. or P. accommodation for houses when necessary; to borrow money to pay for the carrying out of any of the above, and levy rates to pay off the capital so borrowed, with the interest thereon.

*Duties.*—To see that all houses contain a w.c., E.C., privy, and ashpit; to provide public necessities; to keep all sewers in repair, and provide new if necessary; to purify all sewage before discharging it into streams; to keep all sewers, w.c.'s, cesspools, &c., from being a nuisance or injurious to health; to see that no house is built without drains; to take measures to prevent building over sewers; to see that sufficient w.c.'s, &c., are provided for factories; to prevent nuisance arising from any of the above.

*Note.*—L.A. may allow persons without their district to use their sewers under certain conditions.

## SEWERAGE AND DRAINAGE.

### *Regulations as to Sewers and Drains.*

- 13 ALL existing and future sewers within the district of a L.A., whether urban or rural, with all buildings and materials belonging thereto, shall vest and be under the control of such L.A., except—

(a) Sewers made by any person for his own profit, or by any company for the profit of the shareholders. Sec.

(b) Sewers made and used for the purpose of draining, preserving, or improving land under any local or private Act of Parliament, or for the purpose of irrigating land.

(c) Sewers under the authority of any commissioners of sewers appointed by the Crown.

Any doubt as to the ownership of a sewer constructed outside the district of any L.A., is now set at rest by this section, which enacts that the sewer is vested in the L.A. that constructed it, or to whom it may have been transferred. Any L.A. may purchase sewers 14 within their district, but such change of ownership does not affect those who have previously enjoyed the right of using such sewers. In maintaining existing 15 sewers, and in making new ones, L.A. must remember that they are not entitled to create any nuisance, and that should they do so, they are liable to action. But, if a statute authorises operations which produce a nuisance without providing means for removing it, application must be made to Parliament, for otherwise it is irremediable. A L.A. is not entitled to turn their sewage into an existing watercourse so that it becomes a nuisance, although the water may already be polluted by the houses on its banks, and if a L.A. fail to provide proper sewers for their district, the L.G.B. may compel them to do so by *mandamus*, or may appoint some person to carry out their duty. All sewers must be made of sufficient capacity for the conveyance of the ordinary sewage of the district, or else the L.A. will be liable for any damage by overflow or bursting of the sewer, unless such sewer has stood for six years and then burst, or the overflow be

Sec. due to extraordinary storms. But if an overflow occur, and private premises are injured, the L.A. are liable, if the overflow be due to their not cleansing the sewer. By sec. 7 of the Rivers Pollution Prevention Act, 1876, L.A. are required to allow manufacturers to drain their refuse liquids into sewers, provided that nothing *injurious* is so discharged. No sewer may open into a stream, and connections between house drains and a sewer, if opening into a stream, must not be made. A L.A. must use reasonable care in keeping their sewers clean, and "where a statute impose as a duty on a public body in any but a clear and unambiguous terms, such a duty is not absolute, but only a duty to use reasonable care," (*Hammond v. St Pancras Vestry*, 30 *L.T.*)

16 Any L.A. may carry any sewer through, across, or under any turnpike road, or any street, or any place intended as a street, or under any cellar or vault under the pavement or carriage way of any street, after giving reasonable notice in writing to the owner or occupier, and if on the report of the surveyor it appears necessary, into, through or under any lands whatsoever within their district. They may also, when the Act permits, exercise all the powers granted by this section without their district for the purpose of outfall or distribution of sewage, and it has been decided [*Rodericks v. Aston*, *L.B.* ; 36 *L.T. (N.S.)* 170] that a L.A. might construct a sewer above as well as under the surface of private lands without purchasing any of the lands occupied by it. The Secretary of State for War, under the Defence of the Realm Act, 1860, may, without legal proceedings, stop up, divert, or alter the level of any highway,

sewer, drain, or pipe, and, if necessary, make others in their place. He may also alter the course and level of any unnavigable river, brook, stream, or watercourse, for the purposes of defence, and make such necessary compensation as provided in the act. No L.A. is permitted to use a sewer to carry sewage into any natural stream of water, canal, pond or lake, unless the sewage is first purified from all excrementitious or noxious matter. This provision relates to sewage works either within or without the district of the L.A., and they may take proceedings—*sec.* 69—for preventing the pollution of streams, and—*sec.* 48—for the cleansing of foul water courses bounding their district, and under *sec.* 91—iii., for the abatement of nuisances from foul pools, water courses, &c. ; but, on the other hand, proceedings may be taken against them if they allow sewage to flow into any stream to the damage of property or annoyance of persons lower down the stream. As the rights of riparian proprietors are not limited to their present modes of enjoyment, an injunction will be granted and damages awarded, since the cause of injury varies from day to day. It has also been decided that a L.A. are not entitled to discharge their sewage into a stream although no bad effect was discoverable some miles lower down, and a riparian proprietor may also apply for an injunction to restrain the pollution before it becomes an undoubted nuisance. Private rights must, as a rule, yield to public interests, but in the pollution of streams the right of the individual is not only comparable, but identical with the true interests of the public, and, therefore, an injunction will be granted, and aggrieved persons not left to

Sec. obtain redress from a series of actions at law. L.A. may be committed for contempt of court if they allow sewage to flow into a stream after a fixed date, even if they have tried and failed to render it inoffensive. In order to establish a ground for the interference of the court, the words "to the injury of the plaintiff" must be inserted in the application.

18 Any L.A. may alter the course, cover in, enlarge, or  
close up any of their sewers if they do not inconveni-  
19 ence persons using the sewers, or create a nuisance ;  
and all sewers so constructed must be covered, ven-  
tilated, and *kept by* the L.A. so as not to be injurious  
20 to health, or a nuisance. A map may be provided by  
L.A. of such system of sewers for the inspection of the  
21 ratepayers at all reasonable hours. On giving due  
notice and complying with the regulations of L.A. as  
to connection of drains with sewers, occupiers or owners  
are entitled to use the sewers of L.A., subject to the  
provision that they do not exceed their privileges and  
cause a nuisance. Thus, if an occupier or owner have  
permission to send clean water through a drain, and  
he send dirty water, L.A. may stop up his drain, for  
any one entitled to a limited right who exercises it in  
excess, loses all right of an action for an obstruction,  
unless he comply with the former stipulations of his  
agreement. Any one not complying with the provi-  
sions of this section is liable to a penalty not exceeding  
£20, and the closing of his drain by L.A. till he  
22 complies with their regulations. The occupiers or  
owners of premises without the district of a L.A. may  
make arrangements to drain into sewers of L.A., any  
dispute arising being settled, at the option of the

owner or occupier, by a court of summary jurisdiction or by arbitration. If a house within the district of a L.A. has not a proper drain, notice shall be given in writing to the owner or occupier to make a covered drain emptying into a sewer which is not 100 feet from the house. but if no such sewer is available the drain may be led into a cesspool not under any house, and the drain must be made of such materials and laid as the L.A. direct. If the order is not complied with within a reasonable time, L.A. may make the drain and recover expenses for the work. But if L.A. are of opinion that it would be cheaper to make a new sewer for the drainage of two or more houses, they may construct such new sewer, and share the expense among the owners or occupiers of the houses draining into it, recovering the cost in a summary manner, or they may declare the same as private improvement expenses. This section and the next apply to U.A. and R.A. If a drain, although sufficient for the drainage of a house, is not adapted to the general sewage of the district, the L.A. may close such drain on condition of providing another, at their expense, equally effectual and communicating with the new system. No house in an urban district must be built or rebuilt, or occupied without a proper drain opening into a sewer not distant more than 100 feet from such house, or into a covered cesspool if there be no convenient sewer. A penalty of not more than £50 shall be imposed for any contravention of this section. Any person, without the written consent of U.A., causing any building to be newly erected over any sewer, or making any vault or cellar under the

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Sec. carriage way of any street, is liable to a penalty of £5, and 40s. for every day during which the offence is continued after receiving written notice ; and the L.A. may demolish or alter such erection, and recover their expenses for so doing. This and the last section do not apply to R.A. unless endowed with urban powers. A house built on the surface of the ground without any digging out of the soil, is a building within the P.H., 1848, and bay windows projecting three or four feet from the main line of houses, and carried from the foundation to the roof, come within the covenant not to erect "any building"—(*Lord Manners v. Johnson*, *L.R.* 1 *ch. D.* 673).

### *Disposal of Sewage.*

27 For the purpose of receiving, storing, disinfecting, distributing, or otherwise disposing of sewage, any L.A. may—

(a) Construct any works within their district, or without their district, subject to the provisions of this Act as to sewage works without the district of the L.A. ; (b) Contract for the use of, purchase, or take on lease any land, buildings, engines, materials, or apparatus, either within or without their district ; (c) Contract to supply for any period not exceeding twenty-five years any person with sewage, and as to the execution and cost of works, either within or without their district, for the purpose of such supply.

No nuisance must be created, and a L.A. is not allowed to enter upon lands of a person *in invitum* for the construction of a reservoir or cesspool, to be used for collecting and deodorizing sewage matter ; but the section only applies to the right to purchase lands,

such rights being followed by what may be necessary for emptying and cleansing the sewers, but not for simply retaining the sewage. If soakage from a cesspool enters a well on adjoining property, the use of the cesspool may be prevented. A L.A., with the sanction of the L.G.B., may agree with an adjoining L.A. to allow their sewers to communicate, any dispute being settled by the L.G.B. ; and as far as practicable storm waters must be prevented from flowing from the sewers of the first L.A. into those of the second ; and sewage of other districts entering the sewers of the first must not be discharged into those of the second without mutual agreement. Any L.A. may deal with any lands held by them for the purpose of receiving, storing, disinfecting, or distributing sewage, in such manner as they deem most profitable—

(a) By leasing the same for not more than twenty-one years for agricultural purposes ; (b) By contracting with some person to take the whole or part of the produce of such land ; (c) By farming such land, and disposing of the produce thereof.

No nuisance must be created by any of these operations. Any L.A. may contribute to the expenses incurred by any person taking the sewage, and they may also become shareholders in any company using the sewage for any of the purposes just named. The making of works of distribution and service, for the supply of sewage to lands for agricultural purposes, shall be deemed an "improvement of land" authorised by "The Improvement of Land Act, 1864," which provides a method of charging upon lands the expenses of any "improvements" effected upon it under the superintendence of the "Inclosure Commissioners." The

Sec. construction of Water Works and Reservoirs are also held as an improvement of land.

*As to Sewage Works without District.*

- 32 Before commencing sewage works outside their district, a L.A. must give three months' notice of their intention, by advertisement in one or more of the local papers—and such notice must give all particulars of the intended works, the names of the parishes, turnpike roads, streets, &c., likely to be affected—and also provide a place where a plan of the works may be seen at all reasonable hours. A like notice must also be served on all owners and occupiers of land, on the overseers of the parishes named, and on the trustees, 33 surveyors, &c., of highways. If any one objects to the intended works, and serves a notice in writing of such objection upon the L.A. within the three months, the works cannot be commenced without the sanction of the L.G.B., after due enquiry, or the withdrawal of 34 such objection. The L.A. then makes an application to the L.G.B., who may appoint an Inspector to make enquiries on the spot; and, on receipt of his report, the L.G.B. may make an order allowing, disallowing, or modifying the plan proposed.

*Privies, Waterclosets, &c.*

- 35 No house shall be erected or rebuilt without a w.c., E.C., or P., and an ashpit with doors and coverings; and sec. 157 gives U.A. power to make by-laws with regard to these. A penalty not exceeding £20 is 36 imposed for neglect of this law. Any house deficient in these necessaries, the L.A., on the report of their

Surveyor or S.I., shall, by written notice, require the owner or occupier to provide them within a reasonable time; and, in case of neglect of such notice, the L.A. may do the required work, and recover their expenses, provided that, where a w.c., E.C., or P. is used in common by the inmates of two or more houses, or if, in the opinion of the L.A., a w.c., E.C., or P. may be so used, they need not require the same to be provided for each house. With the approval of the L.A., an E.C. may be substituted for a w.c.; and with their sanction the water supply to such w.c. may be dispensed with, on such terms as may be agreed on between such L.A. and the person providing the water supply; and any L.A. may undertake to supply dry earth, or other deodorizing substance, to any house in their district, for use in the E.C., or contract with any person to supply the same. The term E.C. includes any place for the reception and deodorization of fecal matter, constructed to the satisfaction of the L.A. Sec. 37

In any building used, or about to be used, as a factory, where both sexes are employed, the L.A. may, by written notice, require the owner or occupier to provide, within a specified time, a sufficient number of w.c., E.C., P., or ashpits for the separate use of each sex. In default, a penalty not exceeding £20, and a further penalty of 40s. for every day during default, shall be incurred. This provision is extended to R.A., and the number employed in such factories is not limited as formerly to over twenty persons. Any U.A. may provide and maintain, in proper and convenient stations, urinals, w.c., E.C., P., and ashpits, and other similar conveniences, for public accommodation; and the L.A. 38 39 40

Sec. must provide that these be kept so as not to be a  
41 nuisance or injurious to health. On the written application of any person to a L.A., stating that a w.c., E.C., P., A.P., or C.P., on or belonging to any premises within their district, is a nuisance, or injurious to health—*but not otherwise*—the L.A. may, by writing, empower their S. or S.I., after twenty-four hours' written notice to the occupier of such premises, or in case of emergency without notice, to enter such premises, with or without assistants, and cause the ground to be opened, and examine such D., W.C., E.C., P., A.P., or C.P. If any of these be found to be in a proper condition, they shall cause the ground to be closed, and any damage done to be made good as soon as can be, and the expenses paid by the L.A. If any of the above be in a bad condition, or require alteration or amendment, the L.A. shall give notice in writing to the owner or occupier of the premises, requiring him, within a stated period, to do the necessary works, under penalty of 10s. for every day he is in default; or the L.A. may execute the work and recover the cost, or declare the same to be private improvement expenses. If admission be refused between the statutory hours of 9 and 6 o'clock, L.A. may take proceedings under sec. 305—by first giving the owner or occupier written notice, and then applying to court of summary jurisdiction for an order to enter the premises. The L.A. have the power to determine the nature and extent of the required works, and also to determine whether their directions have been properly carried out, and the justices have no power to review their determination (*Hargreaves v. Taylor; Austin v. Lambeth*). The occupier and not the owner is *prima facie* liable

for the repair of the drains of the premises occupied by him (*Russell v. Shenton*, 11 *L.J.*, 2 *B.* 289); but if an owner of land erect a building which is a nuisance, or likely to become so during occupation, he is liable for not taking proper means to prevent such nuisance (*R. v. Pedley*, 1 *A. & E.* 322; 3 *L.J.*, *M.C.*, 119). If special care be required to prevent a nuisance, the owner is liable although the nuisance is caused by want of care on the part of the tenant. A prospective tenant is not liable for the rent of a furnished house if it be not in good and tenantable condition. A cesspool full of filth under the floor is a justification for rescinding the contract (*Wilson v. Finch Hatton*, 48 *L.J. Ex.* 586).

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TABLE GIVING THE GENERAL POWERS AND DUTIES  
OF AN U.A. WITH REGARD TO SCAVENGING AND  
CLEANSING STREETS AND HOUSES.

*Powers.*—To provide for the scavenging and cleansing of streets; to make by-laws, imposing duty of cleansing, &c., on occupier of houses; to provide receptacles for deposit of rubbish; to order removal of manure, or to sell the same to pay the expenses of removal.

*Duties.*—To cleanse and water streets when ordered by L.G.B.; to see that all houses are properly cleansed by order of the M.O.; to see that pigs are not kept so as to be a nuisance; to prevent stagnant water, or sewage from a cesspool, becoming a nuisance or injurious to health; to provide for the cleansing of ditches, &c.

Sec. *Note.*—L.A. is subject to penalty, after notice from occupier, for not removing refuse, if they have contracted to do so.

## SCAVENGING AND CLEANSING.

### *Regulations as to Streets and Houses.*

- 42 EVERY L.A. may, and when required by the L.G.B. shall, undertake or contract for—(a) The removal of house refuse from premises; (b) The cleansing of E.C., P., A.P., and C.P., for the whole or part of their district. U.A., and R.A. invested with urban powers, may, and shall when required by L.G.B., undertake or contract for the cleansing and watering of the streets in their district; and all matters so collected may be sold, and any profits made carried by U.A. to the fund applicable to the general purposes of the Act. R.A. may do the same. Any person obstructing the L.A. or contractor in removing any matters mentioned in this section is liable to a penalty not exceeding £5; but an occupier shall not be liable for such matters as are produced on his own premises, and intended for sale
- 43 or private use, and do not cause a nuisance. But if a L.A., having contracted to remove refuse, &c., fail to do so, without reasonable cause, after a written notice be served upon them by the occupier of any house within their district, they shall be liable, after seven days from such notice, to pay to the occupant not more than 5s. for every day they are in default. A similar clause is contained in sec. 125 of the Met.
- 44 Manage. Act, 1855. Where a L.A. do not undertake to cleanse footways, to remove refuse, or cleanse E.C.,

etc., they may make by-laws, imposing the duty on Sec. the occupier of any premises ; and an U.A. may make by-laws for the prevention of nuisance from snow or rubbish, &c., and for the prevention of the keeping of animals on any premises so as not to be injurious to health.

As to the meaning of the term "refuse," the following cases are important. It has been held that, where coals have been used once and then removed, intermixed with dust and ashes, to another parish, and again used, the scavenger of the first parish was not entitled under the Met. Paving Act—56 Geo. iii. c. 29—to claim any of the articles so removed (*Filbey v. Combe*, 2 *Mu.*, &c., *W.* 67 ; 1 *Jur.* 721). And a brass-founder, who gave his ashes, mixed with small quantities of metal, to his workmen, who sold it to brass refiners—it was held that the ashes, being available for further commercial purposes, were not "dust, cinders, or ashes" within the meaning of the same Act (*Law v. Dodd*, 1 *Exch.* 345 ; *L.J.*, *M.C.* 65). But it has also been held that Commissioners under a Loc. Improv. Act are not compellable to remove dust, ashes, or rubbish from a manufactory, as only the removal of domestic rubbish is intended (*Lyndon v. Standbridge*, 2 *H. & N.* 45 ; 26 *L.J. Exch.* 386). A more recent decision declares that the ashes of coal used for a manufacturing engine were not "the refuse of any trade, manufacture, or business," for the removal of which a scavenger was entitled to make a charge under the 18, 19 Vic. c. 120 (*Gay v. Cadby*, *L.R.* 2, *C.P.D.* 39 ; 36 *L.T. (N.S.)* 410).

Any L.A. may provide proper and convenient re- 15

Sec. ceptacles for the temporary deposit and collection of dust, &c., and also buildings, &c., for the matters collected by them; but the L.A. must be careful not to exceed their powers, and they are not always allowed to do just what they please.

46 Any L.A. shall give notice to the owner or occupier to whitewash or cleanse his house, or any part of it, if the necessity for so doing be certified by the M.O., or any two medical practitioners—especially if so doing would tend to prevent or check any infectious disease; and this provision extends to R.A. as well as to U.A. By sec. 120 the certificate of *one* practitioner will suffice, if the object of disinfection is “to prevent or check infectious disease,” in cases of emergency. If the person to whom notice is given does not comply therewith within the time stated, he becomes liable to a penalty not exceeding 10s. for every day he is in default; or the L.A. may do the work and recover expenses. If, in a L.B. district of 10,000 or more inhabitants, the M.O. finds premises in a condition dangerous to health and unfit for human habitation, he must report thereon to the L.A.; and he must also do so on receiving a representation from one or more householders living in or near the street where the premises are situated. On his report, the L.A. are to take action under the Artizans and Labourers Dwellings Act (31 & 32 Vic. c. 130).

Now, also, under the Artizans and Labourers Dwellings Improvement Act, in urban districts containing 20,000 persons, the M.O. may make an official representation to the L.A., showing that an area is unhealthy, with a view to an improvement scheme being made for

the re-arrangement and re-construction of the streets Sec. and houses in such area. It has also been enacted 47 that, in an U.D., if any person is guilty of causing any of the following nuisances, he is liable to a penalty not exceeding 40s., and 5s. for every day in default; or the L.A. may abate the particular nuisance and recover their expenses:—(a) Keeping any swine or pigstye in any dwelling-house, so as to be nuisance to any person. This applies not only to the place, but also to the manner of keeping, and is only applicable to U.D. The Towns Police Clauses Act, 1847, imposed a penalty of 40s., or fourteen days imprisonment, on “every person who keeps any pigstye to the front of any street, not being shut out from such street by a sufficient wall or fence, or who keeps any swine in or near any street, so as to be a common nuisance.” A by-law, prohibiting the keeping of swine in any part of a borough within certain dates, was held to be *ultra vires* as only the keeping of them so as to be a nuisance, is illegal; but a by-law forbidding the keeping of pigs within 100 feet of a dwelling-house, and ordering certain drainage works where pigs are kept, was held to be reasonable. (b) Suffers any waste or stagnant water to remain in any cellar or place within any dwelling-house for twenty-four hours after written notice to him from the U.A. to remove the same. (c) Allows the contents of any w.c., p., c.p. to overflow or soak therefrom. On this subject a case decided in 1092 was held to apply. “As every man is bound to look to his cattle, as to keep them out of his neighbours’ ground, so he must keep in the filth of his house or office, that it may not flow in upon and damage his

Sec. neighbour. If a man has two houses contiguous, and one has a house of office, which is separated from the cellar of the other house by a wall, which keeps in the filth of the house of office, and he sell that house, the vendee must keep in the filth of the house of office, so that it shall not run in upon the other house."

*Offensive Ditches and Collections of Matter.*

48 Provision is made in this section for obtaining an order from a justice in the district where the offence occurs, for cleaning offensive watercourses and open ditches lying near to or forming the boundaries of any two districts. If the L.A. of one district have done their duty in preventing the nuisance, they can compel L.A. of the other district to do theirs; and this applies to R.A. If a highway bounds the districts, the part on each side of the centre of the road, or *medium filum*, belongs to the respective district. With regard to a river boundary, the 31, 32 Vic. c. 122, enacts "that every concretion from the sea, whether natural or artificial, and the part of a sea shore to low-water mark, and the bank of every river to the middle of the stream, which, on the 25th of December 1868, shall not be included within the boundaries of, or annexed to, or incorporated with, any parish, shall, for the same purposes, be annexed to and incorporated with the parish to which such accretion, part, or bank adjoins, in proportion to the extent of the common boundary."

49 In an U.D. the S.I. shall give notice to the owner or occupier of any premises to remove any accumula-

tion of manure, dung, soil, &c., which appears to the S.I. to be a nuisance; and if such removal be not made in twenty-four hours, the matters may be sold by the U.A., who, after deducting expenses of sale, &c., are to give the surplus—if any—to the owner on demand; but if there is a deficit, such deficit may be recovered from the owner. An U.A. may give notice, by public announcement in the district or otherwise, for the periodical removal of manure or other refuse matter from mews, stables, or other premises, which, if not complied with, the owner shall be liable, without further notice, to a penalty not exceeding 20s. for every day he is in default. The notices required under the two last sections may be served by fixing them on the turnpike gate.

Sec.

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TABLE GIVING THE GENERAL POWERS AND DUTIES  
OF U.A. WITH REGARD TO WATER SUPPLY.

*Powers.*—General powers for supplying district with water, viz.—to construct waterworks, dig wells, lease, hire, or purchase waterworks, and to contract to supply water; to carry mains within and without district; to supply water; to charge rates and rent; to supply water by measure; to supply water to adjoining district; to close polluted wells; to borrow money to carry out any of the above.

*Duties.*—To keep waterworks in good order and repair, and supply pure and wholesome water; in some cases to require houses to be supplied with water; to supply water, when required, for public baths and for trading purposes; to provide fire-plugs.

Sec. *Note.*—Individuals may object if they are affected by the construction of waterworks. L.A. cannot supply water if there is a good supply from existing company to the district. They cannot, also, supply water at a profit and use such profits for the reduction of other rates—see *Public Health Water Act*, 1878.

### WATER SUPPLY.

#### *Powers of Local Authority in relation to Water Supply.*

51 ANY U.A. or R.A. may provide their district, or any contributory place therein, or any part of such contributory place, with a supply of water proper and sufficient for public and private purposes; they may—

(a) Construct and maintain waterworks, dig wells, or do any other necessary acts; (b) Take on lease or hire any waterworks, and, with the sanction of the L.G.B., purchase any waterworks, or any water, or right to take or convey water, either within or without their district, and any rights, powers, and privileges of any water company; (c) Contract with any person for a supply of water.

If complaint is made to the L.G.B. that the existing supply is insufficient or unwholesome, and that the L.A., being able at a reasonable cost to remedy the evil, have not done so, the L.G.B. may, after due enquiry, make an order limiting a time for performance of the duty by the L.A. This order may be enforced by mandamus, or may be executed by a person appointed by the L.G.B., at the expense of the L.A. In providing a proper water supply, some important distinctions must be drawn between water flowing in a regular and ancient stream and mere

surface water, or that flowing in underground channels. A L.A. will not be allowed to injuriously affect the supply of water to which any persons are entitled, nor streams, &c., in which they have certain rights, without consent of such persons. And it appears also that where a company have obtained, by a private Act, control over a navigable river, no L.A. can take water from the stream without consent to do so being given, and that it is not necessary to show that actual damage to the navigation has been done by the abstraction of any of the water (*Medway Navigation Co. v. Earl Romney*, 7 *Jur. (N.S.)* 846). But a L.A. may sink wells for the purpose of obtaining water, even though the underground water is diverted from a stream in which it had hitherto flowed, and damage is thereby occasioned to property on its banks; and such well-water may be pumped up and supplied to persons resident in the neighbourhood, many of whom have no right as landowners to the water at all (*Chasemore v. Richards*, 29 *L.J., Ex.* 81). The water in a well belongs to the owner of the well, who must be careful that it does not cause a nuisance by overflowing, &c.; for he must be prepared to take the burden as well as the benefit of it. Any person having a cesspool in an adjoining property may be restrained from using it if the water in a well is polluted by percolation from it. A Riparian proprietor has perfect right to the ordinary and reasonable use of water flowing in a definite channel through his lands, in a manner not inconsistent with a similar right in the proprietors of the land below him; no proprietor can, therefore, diminish the quantity or injure the quality of the

Sec. water which would otherwise descend. Thus, if a L.A. wishes to have exclusive right to the water of a stream, they must buy up the rights of all the proprietors below them. A landowner has perfect right to appropriate all surface water not flowing in a distinct channel, although he prevents such surface water from reaching a watercourse which it previously supplied (*Broadbent v. Ramsbottom*, 11 *Ex., Rep.*, 602); he may also drain his land for agricultural purposes.

- 52 Before commencing to construct waterworks within the limits of supply of any water company empowered by Act of Parliament, or any order confirmed by Parliament to supply water, the L.A. shall give written notice to every water company within whose limits of supply the L.A. are desirous of supplying water, stating the purposes for which, and—as far as may be practicable—the extent to which water is required by the L.A. No L.A. is permitted to construct any waterworks within such limits so long as there is any company able and willing to supply water proper and sufficient for all reasonable purposes for which it is required by the L.A.—(*Richmond Waterworks Co. and Southwark and Vauxhall Waterworks Co. v. Richmond Vestry*, *L.R.* 3 *Ch. D.* 82)—and any difference as to ability of the company to supply the water, or as to the quality or quantity of the water supplied, or the charges, &c., for the same, shall be settled by arbitration.
- 53 A L.A. also, before commencing to construct any reservoir, other than a service reservoir or tank which will hold not more than 100,000 gallons, must give at least two months' notice of the intended work by advertisement in one or more of the local news-

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papers. If any one objects, such objection must be served in writing on the L.A. within the two months, and the work shall not be commenced without the sanction of L.G.B., or withdrawal of the objection. On application of L.A., the L.G.B. may appoint an inspector to make inquiries and report, and on the receipt of which the L.G.B. may allow or modify the proposed work. Where a L.A. supply water within their district, they shall have the same powers, and be subject to the same restrictions for carrying water mains within or without their district as they have, and are subject to for carrying sewers within or without their district respectively. It appears, also, that if the mains pass through other parishes, the L.A. will be liable to be rated to the poor rates of such parish, in respect of the occupation of the soil by the mains, even though the L.A. may make no profit from the water supply. In case of small profits made by L.A., the rates are to be charged on the actual profits, if any, and not on the sum which a trader would have made on the undertaking. A L.A. shall provide and keep in their waterworks a *pure and wholesome supply*, and the water may be constantly laid on at such a pressure as will carry it to the top storey of the highest dwelling-house in the district.

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A L.A. supplying water to any premises are entitled to charge a water rate assessed on the net annual value of the premises ascertained, as provided by this Act, and they may also enter into agreements for supplying water on such terms as may be agreed on between them and the persons receiving the supply, and they shall have the power to recover water rents as they

Sec. have for water rates. They may also supply water gratuitously. Sec. 10 of the P.H.W.A. 1878, it would seem gives ten ratepayers, or it may be five, the power of prohibiting a L.A. from carrying out such arrangements. Expenses of providing water supply for a contributory place, are, by the P.H. 1875, sec. 229, made special expenses, which—sec. 230—are to be paid to the L.A. by the overseers of the contributory place, and such expenses may be recovered by means of water rates if the ratepayers so desire. The object of parliament being to enable persons rated to the relief of the poor to insist on payment for water supplied being made by those who use it, as otherwise portions of a district might be without a water supply but yet contribute to general rates, out of which the expenses of water supplied to other portions of the district were defrayed. The water rates must not be such as to leave a profit in the hands of the L.A., and so enable them to diminish general rates at the expense of the consumers of water. This principle was enforced in the case of the Mayor of Worcester *v.* Droitwich

57 Assessment Committee. To enable any L.A. to supply water, the following Acts are incorporated with the P.H. 1875 :—The Waterworks Clauses Act, 1863, and the provisions as under of the Waterworks Clauses Act, 1847, the effect of this incorporation being to give a L.A. supplying water the benefit of such provisions of the general acts relating to the water companies as are applicable to these circumstances. The incorporated clauses are—

(a) With respect (where the L.A. have not the control of the streets) to the breaking up of streets for the purpose of

laying pipes. L.A. having control of the streets have the same powers to lay water mains as to construct sewers; without control, they, like water companies, must obtain a provisional order or private act to break up streets for laying their mains; (b) With respect to the communication pipes to be laid by the undertakers; (c) With respect to the communication pipes to be laid by the inhabitants; (d) With respect to waste or misuse of the water supplied by the undertakers; (e) With respect to the provision for guarding against fouling the water of the undertakers; (f) With respect to the payment and recovery of the water rates. Sec.

The provisions as to the communication of pipes by the undertakers and inhabitants apply only to the districts supplied by the L.A. Any dispute is to be settled by a court of summary jurisdiction, and any rent for pipes and works paid by an occupier under sec. 44, W.C.A. 1847, may be deducted by him from any rent from time to time due from him to such owner. A L.A. may agree to supply water by measure, and at a stated price, and must keep all meters in proper order, failing to do so, they are not entitled to rent for the time they are in default; they shall also have the power at all reasonable times to remove, test, inspect, and replace such meter or other instrument. The meter so supplied shall be *prima facie* evidence of the water consumed, and any dispute shall be decided by a court of summary jurisdiction at the application of either party, and such court may decide as to the payment of the expenses of the proceedings. Any person wilfully injuring or tampering with the meter supplied, shall be liable to a penalty of 40s., and the L.A. may, in addition, recover the amount of damage sustained. The means for providing water, other than 58  
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Sec. through the meter, if under the control of the consumer, shall be evidence of fraud on the part of such consumer. A L.A. cannot compel the adoption of the meter system in the supply of water to their district, but if they in any case enter into an agreement for the supply of water, they can make it a condition that the water shall be supplied by meter.

61 Any L. A. already supplying water to their own district may, with the consent of the L. G. B., supply water to L.A. of adjoining district on such terms as agreed upon between them, all disputes being settled  
62 by arbitration. A L.A. may, on the report of their surveyor, require houses to be properly supplied with water by giving written notice to the owners, if such supply can be furnished at a cost not exceeding that authorised by any local Act, or where there is no such Act, at a cost not exceeding 2d. a week, but the L.G.B. may extend the limit of charge as they may deem reasonable. The P.H.W.A. 1878, sec. 3, declares that it shall be the duty of every R.A. to see that every occupied dwelling-house within their district has within a reasonable distance an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the house, and the L.G.B. may impose the same duty on U.A., thus compelling them to do what the P.H.A. 1875, leaves to their option, or being superseded in case of non-compliance by the Board under the powers given by sec. 229 of the P.H.A. 1875. If the owner fail to comply, the L.A., or a water company employed by L.A., may construct the necessary works, and recover rates for value and cost of construction of works in a

Sec.  
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summary manner. Any water company may contract to supply water, or may lease their waterworks to any L.A., or they may, on terms agreed upon, sell and transfer to L.A. all rights, powers, and privileges, and all, or any of the waterworks, premises, and other property of the company, but subject to all liabilities to which the same are subject at the time of such purchase.

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All existing public cisterns, pumps, wells, reservoirs, &c., used for the gratuitous supply of water by a L.A., are the property, and are under the entire control of such L.A., who must maintain them in constant efficiency; but they may substitute other works for them, and persons using such water must not sell any of it, and only employ it for their own private use; but this section does not give L.A. any right to go on another man's land for the purpose of getting water from the supply of their wells vested in them, though the wells are there situated. Any L.A. may supply water to any public baths or wash-houses, or for trading or manufacturing purposes, to any owner of these, on mutual terms, and they may also construct works for the gratuitous supply of any public baths or wash-houses established otherwise than for private profit, or supported out of any poor or borough rates. It has been held that water used for washing a carriage and watering a horse kept for private use, comes under the provision for "domestic use."

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By the W. C. A. 1863, a supply of water for "domestic purposes" shall not include a supply of water for cattle or for horses, or for washing carriages, where such are kept for sale or hire, or by a common

Sec. carrier, or a supply for any trade, manufacture, or business ; or for watering gardens, or for fountains, or for any ornamental purposes.

66 Every U.A. shall provide fire-plugs and every means to supply water in case of fire, and for this purpose may enter into an agreement with a water company ; and they shall also paint marks on the streets showing where such fire-plugs are to be found.

67 The D.L.A. may supply water on mutual terms to the Universities of Oxford or Cambridge, or any of the Colleges and Halls.

*Provisions for Protection of Water.*

68 Any person engaged in the manufacture of gas, who causes any pollution of the water in waterworks by any washing or other substance produced in making or supplying gas, shall forfeit for every offence £200, and after twenty-four hours' notice from the L.A., £20 for every day during which the offence continues. The penalty may be recovered, with full costs, in any of the superior courts by the L.A. In the case of water belonging to them, or by the person whose water is so fouled, or if such person does not act, then the L.A. may act after due notice to the person in default. The penalty to be recoverable must be sued for during the continuance of the offence, or within six months after it had ceased.

69 Any L.A. may, with the consent of the Attorney General, take proceedings to prevent the pollution of streams by indictment, bill in Chancery action, or otherwise ; and the cost of such proceedings shall be deemed as proper expenses incurred by such L.A.

On the representation of any person to a L.A. that the water of any well, cistern, or pump, public or private, likely to be used for drinking or domestic purposes, or for the manufacture of drinks for the use of man, is so polluted as to be injurious to health, such L.A. may apply to a court of summary jurisdiction for an order to remedy the same, and such court may summon the owner or occupier of the premises or the person to whom the well, &c., belongs, and dismiss the application, or order the well, &c., to be temporarily or permanently closed, or any other means to prevent injury to health. The court may also cause an analysis of the water to be made at the cost of the L.A. If the person on whom the order is made fails to comply, the court may, at the request of the L.A., authorise them to do whatever is necessary in the execution of the order, and their expenses recovered in a court of summary jurisdiction. Expenses by any R.A. under this section not recovered as above shall be special expenses.

This section extends the power of L.A. over water used for the manufacture of aerated drinks, and enables proceedings to be taken against the owner or occupier of such manufactory.

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TABLE GIVING THE GENERAL POWERS AND DUTIES  
OF AN U.A. WITH REGARD TO CELLAR DWELLINGS  
AND LODGING HOUSES.

*Powers.*—To close cellars in cases of two convictions; to refuse, if necessary, to register common lodging houses; to make by-laws with regard to the same;

Sec. to require water to be supplied to them; to order reports from keeper of houses taking vagrants; to make by-laws as to houses let in lodgings if required to do so by L.G.B.

*Duties.*—To keep a register of the names and residences of all keepers of lodging houses; to cause notice of registration to be fixed to all lodging houses; to see that all lodging houses are periodically lime washed.

*Note.*—All keepers of common lodging houses must now give *immediate* notice to L.A. of any infectious disease occurring in their house.

## REGULATION OF CELLAR DWELLINGS AND LODGING-HOUSES.

### *Occupation of Cellar Dwellings.*

- 71 It shall not be lawful to let or occupy, or suffer to be occupied, separately as a dwelling, any cellar (including for the purposes of this Act in that expression, any vault or underground room) built or re-built after the passing of this Act, or which is not lawfully so let or
- 72 occupied at the time of the passing of this Act. This provision applies to R.D. as well as to U.D. This section absolutely prohibits the occupation of new cellars as dwellings. The following regulations can only, therefore, refer to existing cellar dwellings lawfully so let or occupied at the time of the passing of this Act:—

(a) Unless the cellar is in every part at least 7 feet high, measured from the floor to the ceiling, and is at least 3 feet of its height above the surface of the street or ground adjoining.

(b) Unless there is outside of and adjoining the cellar, and extending all along the entire frontage, and upwards from

6 inches below the level of the floor up to the surface of the street or ground, an open area of at least 2 feet 6 inches wide in every part. (c) Unless the cellar is effectually drained by means of a drain, the uppermost part of which is 1 foot at least below the level of the floor. (d) Unless there is appurtenant to the cellar, the use of a W.C., E.C., or P., and an ashpit, furnished with proper doors and coverings. (e) Unless the cellar has a fire-place with a chimney or flue, and an external window of at least 9 superficial feet in area clear of the sash frame, and made to open in a manner approved by the surveyor—except in the case of an inner or back cellar occupied along with a front cellar as part of the same letting or occupation, in which case the external window may be of any dimensions, not being less than 4 superficial feet in clear area of the sash frame. Sec.

Provided that in any area adjoining a cellar there may be steps necessary for access to such cellar, if the same be so placed as not to be over, across, or opposite to the said external window, and so as to allow between every part of such steps and the external wall of the cellar, a clear space of 6 inches at least, and that over or across any such area there may be steps necessary for access to any building above the cellar to which such area adjoins, if the same be so placed as not to be over, across, or opposite to any such external window. Any person who lets or allows to be occupied any cellar contrary to the provisions of the Act, is liable to a penalty not exceeding 20s. for every day it is so occupied, after notice, in writing, from the L. A. Occupation shall consist in any person passing a night in such cellar. In the case of two convictions relating to the occupation of a cellar within three months—whether the persons so convicted were or were not the same—a court of summary jurisdiction may order the

Sec. closing of the premises for such time as they deem necessary, or may empower the L.A. permanently to close the same, and to defray the expenses of closing them.

*Common Lodging-Houses.*

76 Every L.A. shall keep a register, of the names and residences of the keepers of all C.L.H. within their district, the situation of such house, and the number of lodgers authorised under this Act. A copy of any entry in such register, certified by the clerk of the L.A., shall be received as evidence in all cases, and the register need not be produced, a certified copy being supplied gratis by the clerk to any person applying at a reasonable time.

77 No person shall keep a C.L.H., or receive a lodger, unless the house is registered, nor unless his name, as keeper, is also on the register, but if the registered person dies, his widow, or any member of his family, may keep it for not more than four weeks after his  
78 death without being registered as the keeper. A house sought to be registered must first be inspected by some officer of the L.A., and the L.A. may refuse to register a person as keeper unless he produce a certificate of character on a form required by L.A., signed by three resident householders rated to the poor  
79 rate, at £6 and upwards of annual value. The keeper of a C.L.H. shall, if required by L.A., affix and keep legible the following notice :—"Registered Common Lodging-House," on some prominent part of the outside of his house, and if he neglects to affix or renew such notice, he is liable to a penalty not exceeding £5. and

a further sum of 10s. for every day of default after conviction. Every L.A. may make by-laws— Sec. 80

(a) For fixing, and from time to time varying the number of lodgers who may be received in a C.L.H., and for the separation of the sexes therein; (b) For promoting cleanliness and ventilation in such houses; (c) For the giving of notices and the taking precautions in the case of any infectious disease; (d) Generally for the well ordering of such houses.

Where it appears to any L.A. that a C.L.H. is without a proper water supply, and that such can be obtained at a reasonable rate, the L.A. may, by written notice, require the owner or keeper of such house, within a time specified, to procure such supply, and do all the necessary works for that purpose, and if the notice is not complied with, remove such house from the register until the water supply is provided. The L.A. have a discretionary power not given them under sec. 62, for they may require the supply to be made *if* it can be obtained at a “reasonable rate.” 81

The keeper of a C.L.H. must, to the satisfaction of the L.A., limewash the walls and ceilings in the first weeks of April and October in every year, and failing to do so, is liable to a penalty not exceeding 40s. The keeper of a C.L.H. in which beggars or vagrants lodge shall, if required in writing by L.A., report to L.A. or some appointed person, on schedules furnished him, every person who resorted to his house during the preceding day, and transmit the same to the L.A. The keeper of a C.L.H. shall, when a person in such house is ill of fever or any infectious disease, give *immediate* notice thereof to the M.O. of the L.A., and also to the poor law relieving officer of the union or 82  
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Sec. 85 parish in which the C.L.H. is situated. The keeper of a C.L.H., or any one acting for him, shall at all times, when required by any officer of L.A., give such officer free access to the house, under a penalty not exceeding £5 if refusing to do so.

86 Any keeper of a C.L.H. is liable to a penalty not exceeding 40s. for every day during which the offence continues, who—

(a) Receives any lodger in such house without the same being registered ; (b) Fails to make a report, after he has been furnished by the L.A. with schedules for the purpose, of the persons resorting to such house ; (c) Fails to give the notices required when any person has been confined to his bed in such house by fever or any infectious disease.

By a former Act, notice was only required if the sufferer was confined to his bed for forty-eight hours ; now the notice, to avoid the penalty, must be sent *immediately* the person is taken ill.

87 If the inmates of any C.L.H. allege that they are members of the same family, the burden of proof rests on the parties making the statement.

88 After a third conviction for any offence against the provisions of the Act with regard to a C.L.H., the Court convicting may adjudge that the keeper shall not, within five years, or a less period, at the option of the Court, keep a C.L.H. without the written license of the L.A., which they may withhold or grant on their own terms.

89 The expression "common lodging-house" includes, in any case in which only part of a house is used as a common lodging-house, the part so used of such house ; but the Act does not define what is a common lodging-

house. Mr Danby P. Fry, in his edition of the Lodging-Houses Acts, 1851, remarks that the statute speaks of "common lodging-houses," but nowhere defines the class of houses intended to be designated by that term. "Whether," he says, "it includes all lodging-houses of whatever description on the one hand, or contemplates on the other any distinction between lodging-houses that are 'common' and those that are not, and if so, by what characteristic features the two classes are to be discriminated, are questions affecting fundamentally the operation of the Act, which, unfortunately, the Act itself does not enable us to answer." Mr Fry further refers to a notification issued by the General Board of Health, 1851, in which they intimated their opinion that the term "common lodging-houses" in the construction of the Act is to be understood as "meaning the houses now in use, and practically known under that name."

In a circular issued in 1853 by the General Board of Health, it is stated that they deemed it expedient that the following opinions of the law officers of the Crown—Sir E. A. Cockburn and Sir W. P. Wood—as to the definition of the term "common lodging-house," should be brought under the notice of the Local Boards of Health throughout the country:—"It may be difficult," says the law officer, "to give a precise definition of the term 'common lodging-house,' but looking at the preamble and general provisions of the Act, it appears to have reference to that class of lodging-houses in which persons of the poorer class are received for short periods, and, though strangers to one another, are allowed to inhabit one common room. We are of

opinion that it does not include hotels, inns, public-houses, or lodgings let to the upper classes or middle classes. The term 'strangers to one another' was intended to distinguish lodgers promiscuously brought together from members of one family or household."

In the case of *Langdon v. Broadbent* [37 *L.J.* (N.S.) 434] it was held that a house was a common lodging-house which received all comers, the itinerant character of the greater number of the lodgers making it probable that they did not as a rule make any long stay in the house; and Mr Justice Lindley remarked—"The kind of house that is meant is one that is open to all comers, and therefore requires supervision in order to ensure cleanliness." Grove, J., remarked—"The object of this provision of the Act being to promote health, by preventing dirt and overcrowding, the evidence seems to me to clearly show that this case must be decided on its own facts. There may be lodging-houses resorted to by a higher class of persons, to which the term 'common lodging-house' would not be applicable. I do not think it is necessary to show that lodgers are all herded together in order to bring the case within the statute. Even if a common room is necessary to constitute a common lodging-house, the evidence here shows that they all took their meals together."

In Ireland it has been held that the landlord of a house, all the rooms of which are let out in tenements by the week, at rents less than 3s. a week, although he does not reside upon the premises, is the keeper of a common lodging-house within the meaning of the Dublin Improvement Act, 1864.

In Scotland, a common lodging-house is a house, or Sec.  
part of one, where lodgers are housed at an amount  
not exceeding 4d. a night for each person, whether  
payable nightly or weekly, or at any period not longer  
than a fortnight; or where the house is licensed to  
lodge more than twelve persons.

*By-Laws as to Houses Let in Lodgings.*

The L.G.B. may, by notice in the *London Gazette*, 90  
declare the following enactment to be in force within  
the district, or any part of the district, of a L.A.; and  
after such publication, the L.A. shall be empowered to  
make by-laws for the following matters:—

(a) For fixing and from time to time varying the number of  
persons who may occupy a house, or part of a house, which  
is let in lodgings, or occupied by members of more than one  
family, and for the separation of the sexes in a house so let or  
occupied. (b) For the registration of houses so let or occupied.  
(c) For the inspection of such houses. (d) For enforcing drain-  
age and the provision of privy accommodation for such houses,  
and for promoting cleanliness and ventilation in such houses.  
(e) For the cleansing and lime-washing at stated times of the  
premises, and for the paving of the courts and court-yards  
thereof. (f) For the giving of notices and the taking of pre-  
cautions in case of any infectious disease.

This section does not apply to common lodging-  
houses.

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NUISANCES.

A NUISANCE at common law is “anything which  
worketh hurt, inconvenience, or damage” to anyone;  
and nuisances are of two kinds—public or common

Sec. nuisances, which affect the public; and private nuisances, which may be anything done to the hurt or annoyance of the lands, tenements, or hereditaments of another. But under the Public Health Act, 1875, the term nuisance has a more limited meaning, being confined to those matters which are injurious to health; and Glen advises justices not to act "unless it be proved that the particular thing complained of is a nuisance injurious to health, or that it is likely, in a substantial degree, to injure the health of persons passing by or living near to the premises on which it exists."

A L.A. may take means to prevent a nuisance arising from the use of steam whistles or trumpets, used for summoning or dismissing workmen; and a L.A. may, on giving a month's notice, revoke a permission to use them previously given. The penalty for their use after due notice shall not exceed £5, and 40s. for every day the offence continues. On the complaint of any person that he is prejudicially affected by the permission of the L.A., the L.G.B. may revoke the permission (35 & 36 Vic. c. 61).

For a private nuisance, the remedy is by an action at law for damages, with a demand for an injunction to restrain its commission or future continuance; for a public nuisance, an indictment should be preferred at common law, and then steps taken to obtain an injunction. It is by an action at common law that L.A. may be prevented from polluting a stream by pouring their sewage into it. The remedy for nuisances under the P.H.A., 1875, will be given under each section.

91 For the purposes of this Act the following are nuisances:—

(a) Any premises in such a state as to be a nuisance, or injurious to health. (b) Any port, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit, so foul or in such a state as to be a nuisance or injurious to health. (c) Any animal so kept as to be a nuisance or injurious to health. (d) Any accumulation or deposit which is a nuisance or injurious to health. (e) Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family. (f) Any factory, workshop, or workplace—not already under the operation of any general Act for the regulation of factories or bakehouses—not kept in a cleanly state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, that are a nuisance or injurious to health; or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein. (g) Any fireplace or furnace which does not, as far as practicable, consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, or gasworks, or in any manufacturing or trade process whatsoever. (h) Any chimney—not being the chimney of a private dwelling-house—sending forth black smoke in such quantity as to be a nuisance—shall be deemed to be nuisances liable to be dealt with summarily in manner provided by this Act: Provided—

*First*—That a penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on any business or manufacture, if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing injury thereby to the public health.

*Secondly*—That where a person is summoned before any Court, in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used in such fireplace or furnace, the Court shall

Sec. hold that no nuisance is created within the meaning of this Act, and dismiss the complaint, if it is satisfied that such fireplace or furnace is constructed in such a manner as to consume as far as practicable, having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has been carefully attended to by the person having the charge thereof.

No action can be taken by L.A. with regard to nuisances caused by alkali works, as these are provided  
92 for under the Alkali Acts; but it is the duty of a L.A. to cause from time to time an inspection of their district with a view to ascertain what nuisances exist, and calling for abatement under this Act. and also to enforce the provision of this or any other Act in force in their district, requiring fireplaces and furnaces to consume their own smoke. Should the L.A. fail in their duty, the L.G.B. may appoint some one to do  
93 their duty, charging the expense on the L.A. Any person aggrieved by a nuisance may give notice to the L.A., when, in case of their failing to act, recourse may  
94 be had to the L.G.B. Should, however, the L.A. act in the matter, they must serve a notice on the person causing a nuisance, and if he cannot be found, on the owner or occupier of the premises, but his name need not be inserted in the notice. If the nuisance arises from the want or defective construction of any structural convenience, or where there is no occupier, the notice must be served on the owner, but where the person causing the nuisance cannot be found, and the owner and occupier are not at fault, the L.A. may abate the nuisance without further order.

An "owner" includes any person receiving the rents from property on his own account, or as trustee

or agent for any other person, or who would receive the same if such property were let to a tenant. An action was brought up under the following circumstances:—It appeared that the house to which the privy belonged, and which was the nuisance complained of, was let by A to B for a term of years at a rack rent, and that C received the rent reserved by the lease as agent for A. B occupied the entrance or shop floor only, having underlet to D the residuc of the premises. including the privy, as a yearly tenant at a rack rent. It was held that C was not the owner of the premises within the meaning of the statutes, as he did not receive the rent paid by the occupier D, of the premises in which the nuisance arose. Sec.

If a nuisance continues after the time specified in the notice for its removal, or if in the opinion of the L.A. it is likely to recur on the same premises, the L.A. may make a complaint before a J.P., who shall issue a summons requiring the person served with the notice to appear before a Court of Summary Jurisdiction. The court, if satisfied that the alleged nuisance exists, or is likely to recur, may make an order dealing with the nuisance, and impose in the order for abatement a penalty of £5 and costs, and this penalty may be imposed although the order has not been disobeyed. 95.

If a nuisance, in the opinion of the court, is such as to render a house unfit for human habitation, they may prohibit its use, and subsequently determine their order by another declaring the house habitable when rendered so. 96.

There is a clause in the Metropolitan Water Act, 1871, which has important bearing on this section, and is as follows:—If a waterworks company 97

Sec. at any time provides a constant supply, they may require all taps to be changed by the owner or occupier, and if this is not done, their absence shall be a nuisance (18 and 19 Vic. c. 121, sec. 11, 12 and 19), and such as to render houses unfit for human habitation. The fittings are so bad in London that in any lease a clause should be inserted requiring the landlord to alter fittings, if necessary, in case of the application of the Act just mentioned. Any person not complying with the demands of a L.A. to abate the nuisance, and failing to satisfy the court that he has done his best, is liable to a penalty not exceeding 10s. a day during default, or any person wilfully acting contrary to an order shall be liable to a penalty not exceeding 20s. a day during such contrary action, and the L.A. may even enter the premises to which the order refers and abate the nuisance, doing whatever is required for that object, and recover their expenses in a summary manner. The Court of Exchequer has held that an entry on the land of another in order to remove a nuisance of filth by a person injured thereby is justifiable without previous notice, when the owner of the land is himself the original wrong-doer by placing it there. But where the nuisance is created by another, and the owner succeeds to the *locus in quo*, he is entitled to notice before the injured person can enter to remove it. In case of appeal, no liability to penalty shall arise, nor work done till the appeal be dismissed or withdrawn. If a court of summary jurisdiction is satisfied that no one connected with the nuisance can be found, the order of the Court may be addressed to and carried out by the L.A. The L.A. may also sell

by auction any matter or thing removed in abating a nuisance, and after recouping themselves hand the surplus to the owner of the material removed. To examine for a nuisance, or to enforce the provisions of any Act requiring the consumption of smoke in fire-places, a L.A. or its officers may enter between 9 a.m. and 6 p.m., but where the nuisance arises from any business, then at any hour when the business is being carried on, and in any case where a nuisance has existed, or an abatement ordered, the L.A. or its officers may enter during the above hours until the nuisance is abated, or the necessary works for its abatement finished. In case of refusal, notice must be sent to the offending party that complaint on oath will be made before a J.P., and then the L.A. may, with his order, require the person in charge of the premises to admit them during the above hours, and if it is declared on oath that no person having the custody of the premises can be found, the J.P. may order L.A. to enter. The order of the J.P. continues in force till the nuisance is removed. A penalty of £5 shall be imposed on any one refusing to obey the order of the J.P.

On gaining admission the inspector should attend to the following points :—

(a) Does the nuisance exist? (b) Did it exist at the time the notice was given? (c) Although removed is it likely to recur? (d) To reduce to writing, then and there, the results of the inspection and place them before L.A. so as to ground future proceedings.

The inspection must be made in all cases before proceedings are taken, for the Court of Chancery has

Sec. refused to grant an order to inspect premises to find out how the nuisance was caused after proceedings were begun. The Act gives L.A. no authority to enter upon any premises to execute works, except in cases of disobedience of the order of a J.P., and a Court of Equity will restrain them if they make the attempt.

The Court of Queen's Bench has held that a L.A. may require a w.c. to be provided on premises where a privy already exists.

104 The L.A. may recover all costs and expenses incurred in the execution of the provisions relating to nuisances,  
105 and any private person aggrieved may complain of a nuisance to a J.P., who may, however, adjourn the case for further enquiry, and may also order some one to make the necessary investigation into the alleged  
106 nuisance, with the usual powers of entry, &c. In case of default on the part of the L.A. to proceed in the case of an alleged nuisance, the L.G.B., on receiving a memorial from the aggrieved party, may authorise any officer of police acting in the district to institute proceedings in place of the L.A., and to recover expenses, &c., in the usual way, but he must not enter on any premises used as a dwelling without the person's consent or warrant of a J.P.

107 A L.A. may, if they think that summary proceedings would not afford an adequate remedy in case of a nuisance, etc., take the case into a higher court,  
108 and pay expenses from the general rate. A L.A. may deal with nuisances in their district, although originating outside, by taking summary proceedings before the justices having jurisdiction in the district where the act complained of arises.

In the City of London and the liberties thereof, the Commissioners of Sewers, and elsewhere in the metropolis, the vestry or district board, is the nuisance authority, the N.R.A. not being repealed as regards the metropolis. In the case of two convictions for overcrowding within three months, whether the persons convicted were or were not the same, the Court may, on application of L.A., close the premises for the time deemed necessary by the Court. Sec. 109

Ships lying in any river or port within the jurisdiction of any L.A. are to be treated as houses, and the L.G.B. have power to decide as to the authority having jurisdiction, and without such decision, then under the L.A. whose district nearest adjoins the place where such ship is lying. The master or officer in charge is held to be the occupier of such vessel, but this section does not apply to ships bearing Her Majesty's commission. 110

Where a local Act contains provisions similar to the P.H.A., the L.A. may proceed under either, but only under one, and all powers given under this Act are cumulative, save that when a person has been adjudged to pay a penalty under this Act, he shall, not for the same offence, be liable to a penalty under any other Act. 111 341

### *Offensive Trades.*

The following are the offensive trades which must not be established within an U.A. without the consent of the L.A. under a penalty of £50 for commencing it, and a further penalty of 40s. for every day it is continued. R.A. must apply for urban powers if they 112

wish to put the provisions of this section in force. Blood boiler, bone boiler, fellmonger, soap boiler, tallow melter, tripe boiler, or any other noxious or offensive trade, business, or manufacture. If anyone complains of a nuisance caused by any of the above, it has been held that the Court of Chancery will only grant an injunction if the nuisance be a material injury to property, or to the comfort or existence of those who dwell in the neighbourhood. It has also been settled, that the fumes from a brick-kiln, if they reached dwelling houses, were a nuisance to the inhabitants, which the Court would restrain without requiring any scientific evidence. In a case also where the vapours from some smelting works injured the trees and shrubs in the neighbourhood, it was held, on appeal to the House of Lords, that the defendants were liable for sensible injury done to the plaintiff's property, notwithstanding that their business was an ordinary business, carried on in a proper manner and in a neighbourhood more or less devoted to manufacturing purposes. In the case of *R. v. Neville*, Lord Kenyon remarked that "what is a nuisance in one place is not so in another. In places where offensive trades have been long carried on, they are not nuisances, though they would be so in any of the squares or other places where such trades have not been exercised. Where manufactories have been borne with for many years in a neighbourhood, it will operate as a consent of the inhabitants to their being carried on, though the law might have considered them as a nuisance had they been objected to in time; but if another man come, and by his manufacture renders that which was a little unpleasant very dis-

agreeable and uncomfortable, though it would not amount to a nuisance by itself, still he is answerable for it." The onus of proving that a trade is carried on in a reasonable and proper manner devolves on the defendant, and a manufacturer is liable for the actions of his servants, although their acts are contrary to his orders. An U.A. may make by-laws with regard to the establishment and regulation of offensive trades ; and it is the duty of an U.A., on the certificate of the M.O., or two qualified medical practitioners, or any ten inhabitants, to complain to a J.P. of a nuisance arising from any offensive trade, who may summon the person complained against to appear before a court of summary jurisdiction. If on full inquiry it be shown that the effluvia is a nuisance and injurious to health, and that the best means have not been taken to prevent the nuisance, the owner or occupier shall be liable to a penalty of not more than £5 nor less than 40s., and a penalty double the amount of the last in case of a second or more convictions, but the highest penalty shall not exceed £200. The court is, however, allowed to suspend its final determination, on condition that the person complained of, within a reasonable time, uses every means to remove or abate the nuisance. The U.A. may take the case into a higher court. These proceedings may be taken by R.A., by obtaining order from L.G.B. A legally qualified medical practitioner is anyone registered under the Medical Act of 1858. A L.A. has power to proceed on certificates as just mentioned where any manufactory is a nuisance or injurious to health, even if carried on without their district, provided the proceedings are taken before

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Sec. the justices in the district where the manufactory is situated.

*Unsound Meat.*

Any M.O. or S.I. may inspect at all reasonable  
116 times any animal carcase, meat, poultry, &c., deposited in any place for sale or of preparation for sale, and intended for the food of man ; and the proof that such articles were not exposed for sale or were not intended for food rests with the party charged ; and if any of the above are found unsound or unfit for food, he may seize and carry them away by himself or by an assistant in order to have the same dealt with by a justice. This provision applies to M.O. or S.I. of R.A.

If it appears to the justice that any of the articles  
117 seized are unfit for food, he may condemn the same and order them to be destroyed or disposed of so as to prevent their sale for food ; and the person having them in their possession shall be liable to a penalty not exceeding £20 for *each* piece of meat, etc., so condemned, or to imprisonment for not more than three months.

118 Any person who in any manner, even on a Sunday, prevents any M.O. or S.I. from entering premises for the purposes of inspecting food exposed or deposited for sale, or who obstructs these officers in their duty, shall be liable to a penalty not exceeding £5.

119 A search warrant may be granted by a J.P. on complaint, on oath or affirmation, made by M.O. or S.I. or other officer of L.A. that they have reason to believe that unsound food is concealed in any place, and, if found, seize and carry it away. A penalty not exceeding £20 above any other penalty incurred shall be

imposed on anyone obstructing the officers. To expose Sec.  
for sale or have possession of any articles unfit for food  
is a nuisance at common law, and is punishable inde-  
pendently of this section.

## INFECTIOUS DISEASES AND HOSPITALS.

### *Provisions against Infection.*

Any L.A. must give notice in writing to the owner 120  
or occupier of any house requiring him to cleanse and  
disinfect it, on receiving the certificate of their M.O. or  
other legally qualified medical practitioner, stating that  
such would prevent or check infectious disease; and  
such person failing to comply is liable to a penalty of  
not less than 1s. or more than 10s. for every day he is  
in default, and L.A. may do the necessary work and  
recover their expenses; but should it be shown that he  
is too poor or otherwise unable to do as required, the  
L.A. may with his consent disinfect the house at their  
expense. In a former section giving power to require  
filthy and unwholesome premises to be purified, the  
certificate of two medical practitioners is required.

A L.A. may destroy infected bedding, clothes, &c., 121  
and may allow compensation where the person to be  
compensated is not himself in default, and they may 122  
also make provision for having all infected articles dis-  
infected free of cost, and provide a carriage, &c., for 123  
the conveyance, free of charge, of persons suffering  
from any infectious disease to a hospital or any other  
place of destination. Where any *suitable* hospital or 124  
place for the reception of the sick is provided within

Sec. the district of a L.A., or within a convenient distance of such district, any person who is suffering from any dangerous infectious disorder, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the *consent of the superintending body of such hospital or place*, be removed, *by order of any Justice*, to such hospital or place at the cost of the L.A.; and any person so suffering, who is lodged in any common lodging-house, may, with the like consent on a like certificate, be so removed *by order of the L.A.*

Any person disobeying or obstructing the order for removal shall be liable to a penalty not exceeding £10.

125 L.A. may also make regulations, with the approval of the L.G.B., for the removal of infected persons brought by ships or in canal boats, and such regulations may impose on offenders penalties not exceeding 40s. for each offence.

126 To prevent the exposure of infected persons, it is enacted that any person who,

(a) While suffering from any dangerous infectious disorder, wilfully exposes himself, without proper precautions, against spreading the said disorder, in any *street, public place, shop, inn, or public conveyance*, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering; or (b) Being in charge of any person so suffering, so exposes such sufferer; or (c) Gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from any such disorder,

shall be liable to a penalty not exceeding £5; and a

person who, while suffering from any such disorder, enters any public conveyance *without previously notifying* to the owner or driver that he is so suffering, shall in addition be ordered by the court to pay such *owner and driver* the amount of any loss and expense they may incur in carrying into effect the provisions of this Act with respect to disinfection of their conveyance. But no proceedings shall be taken against persons transmitting with proper precautions any bedding, etc., for the purpose of having them disinfected. Sec.

The exposing of infected persons is a nuisance at common law, and can be dealt with as such.

Every *owner or driver* of a public conveyance shall immediately provide for the disinfection of such conveyance after it has to his knowledge conveyed any infected person, and if he fails to do so he shall be liable to a penalty not exceeding £5; but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in disinfecting it. 127

A penalty not exceeding £20 is imposed on any person who knowingly lets for hire any house or room in which an infected person has been, unless such house has been disinfected to the satisfaction of a legally qualified medical practitioner, testified by a certificate signed by him. 128

The keeper of an inn is responsible for letting any room if infected. An *inn* is a house in which travellers, etc., are provided with victuals and lodging for themselves, luggage, and their horses. A *guest* is any one who lodges at an inn.

Sec.  
129 Any person letting for hire, or showing for the purpose of letting, any house or part of a house, who, on being questioned as to the fact of there being, or within six weeks previously having been, therein any person suffering from any dangerous infectious disorder, knowingly makes a false statement in reply, shall be liable, at the discretion of the court, to a penalty not exceeding £20, or to imprisonment, with or without hard labour, for a period not exceeding a month.

130 The L.G.B. may from time to time issue regulations and instructions with regard to the treatment of persons afflicted with cholera or other epidemic disease in any part of the country, and such regulations shall be published in the *London Gazette* as proof of their authority; and any person refusing to obey or obstructing the performance of any of them, shall be liable to a penalty not exceeding £50.

### *Hospitals.*

131 L.A. may provide hospitals or temporary places for the reception of the sick of their district, the Act making no distinction between pauper and non-pauper cases; and for that purpose they may—

(a) Build hospitals or places of reception. (b) Contract for the use of a hospital or part of one. (c) Enter into agreement, on payment, for the care of their sick in a hospital. (d) Two or more local authorities may combine and provide a common hospital.

175—6 Land may be purchased for a hospital; and infected persons, who are without proper lodging or accommodation, or who are on board ship, may be removed to a hospital.

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Mortuaries and places for *post mortems* may also be provided; and, lastly, L.A. have power of combining for the execution of works. Any expenses incurred by a L.A. for maintaining in a hospital or in a temporary place for the reception of the sick, any patient not a pauper, may recover the same from him at any time within six months after his discharge, or from his estate in the event of his dying in the hospital. This enactment is quite new. With the consent of the L.G.B., a L.A. may provide or contract with any person to provide a temporary supply of medicine and medical assistance for the poorer inhabitants of their district.

Sec. 141

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### *Prevention of Epidemic Diseases.*

When any portion of England appears to be threatened with or is affected by any formidable epidemic, endemic, or infectious disease, the L.G.B. may make, and from time to time alter and revoke, regulations for all or any of the following purposes:—

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(a) For the speedy interment of the dead. (b) For house-to-house visitation. (c) For the provision of medical aid and accommodation for the promoting of cleansing, ventilation, and disinfection, and for guarding against the spread of disease, and may, by order, declare such regulations to be in force in the district of any L.A., and to apply also to any ships within the jurisdiction of the Lord High Admiral of the United Kingdom, or of the commissioners acting for him.

As a means of early ascertaining the presence of disease, the Registration of Births and Deaths Act 1874, enacts that every registrar, when required by the sanitary authority, shall transmit to them a copy of the registration of every death, with the cause of death.

Sec. All vessels having any infected person on board are deemed to be within the provisions of the Quarantine Act, although such vessel has not commenced her voyage, or has come from or is bound for some place in the United Kingdom.

135 All the orders must be published in the *London Gazette* as evidence of authority. Proof may be obtained (1) by the production of a copy of the *Gazette*, purporting to contain such proclamation, order, or regulation; (2) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government Printer; (3) By the production of a copy or extract purporting to be certified to as true by any member of the L.G.B., or any secretary or assistant secretary of the Board. The copy may be partly printed and partly written, and no proof is required of the handwriting or official position of any person certifying. Any forgery of documents is a felony, and punishable by penal servitude.

136 The L.A. are to see to the execution of the L.G.B. orders within their district, and shall appoint and pay such medical and other officers, and provide every thing necessary for mitigating any epidemic disease. In case of wilful neglect they may also prosecute, and  
137 they have also the power of entry on any premises or vessel for the purpose of executing the orders of the  
138 L.G.B. A poor law medical officer is entitled to costs for attendance on board vessels at the general rate of his allowance for services for the union for which he is appointed, such charges being "payable by the captain of such vessel, together with any reasonable expenses for the treatment of the sick." When such services

are rendered by any medical practitioner not a poor law medical officer, he is entitled to charge at the rate he would for his private patients. Any dispute as to pay under £20 may be determined by a court of summary jurisdiction, and such court may determine as to the reasonable remuneration. It will, in many cases, be impracticable for the M.O. to regulate his charge for such attendance in accordance with the scale of payment which he receives from the union or parish. With very few exceptions, the medical officers are paid by annual salaries for their attendance on the sick poor and the supply of medicines, and it is, therefore, manifestly impossible for them to regulate their charge for casual services rendered to sick persons on board vessels by their rate of allowance for the union or parish. A distinction is made between a medical man who is a union or parish M.O., and one who is not. The M.O. is restricted in his charges, at any rate the intention was to restrict him to charge no more than he would be paid by the guardians, if the persons on whom he attends on board ship were paupers; on the other hand, the Act enables the medical practitioner, who is not a union or parish M.O., to charge for any services rendered on board ship, with extra remuneration on account of distance, at the same rate as he is in the habit of receiving from private patients of the class of those attended and treated on shipboard, to be paid by the captain on the part of the owners; therefore, it will be for the medical attendant, in case of dispute, to prove what rate of payment he is in the habit of receiving from the class of persons referred to; at the same time it will be observed from what follows

Sec. that the justices are empowered to determine summarily as to the amount which is reasonable, according to the accustomed rate of charges for attendance on patients of the like class—(*Glen.*)

139 The L.G.B. may, if they think fit, by order, require two or more local authorities to act together in carrying out the provisions of the Act relating to prevention of epidemic diseases, presenting the mode of such joint action, and of defraying the cost thereof.

131 L.A. may form a voluntary union for the purpose of  
285 providing a common hospital; for the execution of other  
191 works; they may appoint a joint M.O., and the L.G.B.  
286 may unite districts for the appointment of M.O. A  
140 penalty, not exceeding £5, shall be imposed on any person who—

(a) Wilfully violates any regulation so issued by the L.G.B.

(b) Wilfully obstructs any person acting under the authority, or in execution of any such regulation.

130 Under a previous section, the penalty for violating regulations there mentioned is £50.

### *Mortuaries, &c.*

141 Any L.A. may, but when required by the L.G.B. shall provide and fit up a proper place for the reception of  
175-6 dead bodies, and acquire land for the purpose, and they  
182 may make by-laws regulating their use and charges for the same, and provide for decent and economical interment, at charges to be fixed by such by-laws, of any dead body received into a mortuary.

142 A J.P., on the certificate of any legally qualified medical practitioner, may order, at the expense of the L.A., the removal to a mortuary of the body of any

one who has died of any infectious disease detained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the health of the inmates. The order may also require the burial of the body within a stated time, unless the friends engage to do so within the time, which, if not done, it is the duty of the relieving officer to bury the body at the expense of the poor rate, being able, however, to recover the cost from any one legally liable to pay the expense of such burial. Any person obstructing the execution of the order of the J.P. is liable to a penalty not exceeding £5. Sec.

L.A. may also provide and maintain places for *post mortem* examinations otherwise than at a workhouse or at a mortuary; and when such a place is provided, the coroner, or other constituted authority, may order the body to be removed to it, all expenses to be paid out of the same fund as the cost and fees for *post mortem* examinations when ordered by the crown. 143

### *Highways and Streets.*

The powers of surveyors of highways and vestries under the Highway Act of 1835, which, however, is not incorporated with the P.H.A. 1875, are vested in the U.A., and all ministerial acts required by any Act of Parliament to be done by or to the surveyor of highways may be done by or to the surveyor of the U.A., or by or to such person as they may appoint. The inhabitants within any U.A. are not liable to rates for roads without their district, but an U.A. may agree with any person for the making of new public roads within their district for the public use through 144  
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Sec. the lands and at the expense of such person, and may agree that such roads shall become on completion highways to be maintained by the inhabitants at large within the district. They may also, with the consent of two-thirds of their number, agree to pay a portion of the expenses of making such roads; without such agreement the new street will become repairable by the inhabitants at large when it has been declared to have been "sewered, levelled, paved, flagged, metalled, channelled, and made good," and provided with proper means of lighting, to the satisfaction of the U.A. Only the "means of lighting" are to be provided by the owners.

147 Any U.A. may construct or adopt bridges, viaducts, or archways over railways, canals, or tramways, so as to become repairable by the inhabitants of their district.

148 And any U.A. may also enter into agreements with turnpike trustees to undertake the repair, cleansing, and watering of their roads, and to change the position, etc., of toll-gates or bars.

### *Regulation of Streets and Buildings.*

149 Everything connected with a street repairable by the inhabitants of a district shall vest and be under the control of the U.A., and the U.A. shall from time to time repair such streets; and any person, without the consent of the L.A., removing any of the paving-stones, etc., or injuring the street or trees in the street in any way, shall be liable to a penalty not exceeding £5, and a further penalty not exceeding 5s. for every square foot of pavement, etc., removed or injured.

150 Where any street within an urban district, not

repairable by the inhabitants at large, hence a private street, has not been properly sewered, paved, lighted, etc., the L.A. may, by notice addressed to the respective owners or occupiers of the premises fronting, adjoining, or abutting on such street, require them to do the necessary works; but, before doing so, the L.A. must prepare plans of the structural works intended to be executed, and an estimate of the cost, which plans and estimate shall be open at the office of the L.A. at all reasonable hours, to the inspection of the parties interested. If the requirements of the notice are not complied with, the L.A. may do the necessary works, and recover their expenses in a summary manner. The L.A. may, however, declare the expenses so incurred to be private improvement expenses.

Purchasers of houses in suburban districts of London should see that the streets have been taken over by the L.A., or else they may find that the "jerry builder" has let them into the making of the street, which may be a very heavy item. It appears also that persons living in houses in a yard at the back of a street are liable for the making and repairing of a street to which they are connected by a private passage, as "access to the premises is the foundation for the liability." (*London School Board v. Vestry of St. Mary's, Islington*, *L.R.I.Q.B.D.* 65.)

The embankment of a railway bounding a street is liable to be rated for the making of such street, even though there be no communication between the railway and the street. (*London and North Western Railway v. St. Pancras*, 17 *L.T.* (n.s.) 654.)

This section exempts ministers and incumbents of

Sec. chapels or churches, or any place used for public religious worship which by law are now exempt from the payment of poor rates, from the expenses to be charged by the last section, except lands in immediate connection with the churches, etc., occupied by the incumbent, minister, or trustees (*3 and 4 Will. IV. c. 30*). Churchyards attached to churches and chapels are also exempt, and the U.A. may pay the expenses from which the incumbent or minister is exempt.

152 When a street has been sewered, etc., to the satisfaction of the U.A., they may adopt such street as a public highway, repairable by the inhabitants at large, provided that, within one month of the putting up of the notice of the U.A. adopting such street, no objection in writing has been sent to the U.A. by the proprietor or proprietors of the street.

153 The water and gas mains may be raised, sunk, or otherwise altered, for the convenience of the L.A., by the owner of the pipes, after due notice from the U.A., the L.A. paying the expenses of the alteration, and provided that as a result of the alteration no permanent injury is done to the pipes. But where any local Act of Parliament imposes on the owner of such pipes the expense of alteration, his liability shall continue as if this Act had not been passed.

154 Any U.A. may purchase, with the consent of the L.G.B., any premises for the purpose of widening or otherwise improving any street, or for the purpose of making a new street.

155 Where a house or the front thereof in a street has been taken down to be rebuilt or altered, the U.A. may prescribe the line in which such house shall be

rebuilt, and the U.A. may tender compensation to the owner for any loss sustained by his house being set back or forward, or such compensation may be determined by arbitration. It is sufficient now if the front only of the house is taken down. Sec.

No person without the consent of the L.A. in an U.D. may bring forward any house or part of a house which forms part of a street, and a penalty of 40s. is imposed for every day the offence is continued after due notice has been given by the L.A. to the party offending. 156

And every U.A. may make by-laws with respect to the following matters:— 157

(a) With respect to the level, width, and construction of new streets and the sewerage thereof. (b) With respect to the structure of the walls, foundations, roofs, and chimneys of new buildings, for securing the stability, the prevention of fires, and for the purposes of health. (c) With respect to the sufficiency of the space about buildings, to secure a free circulation of air, and with respect to the ventilation of buildings. (d) With respect to the drainage of buildings, W.C., E.C., P., A.P., C., in connection with buildings, and the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation.

The L.A. may also provide for the observance of such by-laws by enacting provisions for the deposit of plans, the giving of notices, the inspection of buildings, and the pulling down of buildings in contravention of such by-laws, provided that no by-law under this section shall affect any building erected in any place (which at the time of the passing of this Act is included in a U.S.D.) before the L.G.A. came into force in such place, or any building erected in any place

Sec. (which at the time of the passing of this Act is not included in a U.S.D.) before such place becomes constituted or included in a U.D., or by virtue of any order of the L.G.B. subject to this enactment.

This and the two last sections do not apply to buildings belonging to a railway company under any Act of Parliament.

158 In pursuance of this section, model by-laws have been issued by the L.G.B. Where the notice, plan, etc., as to the proposed erection of a building required by a by-law is to be laid before a L.A., the L.A. shall within a month signify its approval or disapproval of the plans; and if the work is begun after notice of disapproval, or before the expiration of the month without such approval, the L.A. may require the work to be pulled down, and they may recover their expenses for removal in a summary manner.

159 The re-erecting of any building pulled down to the ground floor, or the conversion into a dwelling house of any building not originally constructed for human habitation, or making one into two or more dwellings, shall be considered the erection of a new building.

160 The Towns Improvement Clauses Act for the following matters are incorporated with the P.H.A.:—

(a) With respect to naming the streets and numbering the houses. (b) With respect to improving the line of streets and removing obstructions. (c) With respect to ruinous or dangerous buildings. (d) With respect to precautions during the construction and repair of the sewers, streets, and houses.

### *Lighting of Streets.*

161 Any U.A. may contract with any person for the supply of gas for the lighting of streets, buildings, and

markets in their district, and may provide lamp-posts, etc., for the purpose; and where there is no company or person authorised to supply gas, the U.A. may obtain a provisional order from the L.G.B. under the Gas and Waterworks Facilities Act, 1870, and themselves supply the gas. This section does not apply to R.A. unless invested with urban powers. The U.A. may buy up the works of any gas company and then supply gas for private or public purposes. The "Watching and Lighting Act" of William the Fourth is superseded by the P.H.A.

*Public Pleasure Grounds, &c.*

Any U.A. may provide places for public recreation, and may make by-laws for the regulation of such pleasure grounds, and for the removal of obnoxious persons. This does not apply to R.A. Land purchased for a pleasure ground cannot be used for any other purpose, unless, perhaps, for the erection of "a free public library, museum, or conservatory, open for the use, convenience, and recreation of persons frequenting such walks and pleasure grounds."

Any U.A. may provide public clocks and have them lighted at night.

*Markets and Slaughter Houses.*

Where an U.A. are improvement commissioners or a local board, they shall have power, with the consent of the owners and ratepayers of their district; or where the U.A. are a town council, they shall have power, with the consent of two-thirds of their number, to do any of the following things within their district:—

Sec. (a) To provide a market place, and construct a market house and other conveniences, for the purposes of holding markets. (b) To provide houses and places for weighing carts. (c) To make convenient approaches to such markets. (d) To provide all such matters and things as may be necessary for the convenient use of such market. (e) To purchase, or take on lease, land, and public or private rights in markets and tolls for any of the foregoing purposes. (f) To take stallages, rents, and tolls in respect of the use by any person of such market.

But no market shall be established so as to interfere with the rights, powers, and privileges enjoyed within the district by any person without his consent.

167 To enable any U.A. to establish or regulate markets, the Markets and Fairs Clauses Act, 1847, so far as it relates to markets, is incorporated with the P.H.A., and the L.A. may make by-laws for the regulation of markets, such by-laws to be suspended in the market.

168 Any U.A. may purchase the market of any market company duly incorporated.

169 Slaughter-houses may be provided, and by-laws made for their regulation, by any U.A., the Towns Improvement Clauses Act, 1847, being here incorporated for that purpose, but nothing must be done to affect the rights of any persons by any local Act passed before the passing of the P.H.A. 1848, for the purpose of making or maintaining slaughter-houses. To prevent horse stealing the statute 26 Geo. III. c. 71 was passed requiring all houses or places for the purpose of slaughtering horses or other cattle, not killed for butcher meat, to be licensed, and a record of all animals slaughtered to be kept for the inspection of the officer appointed for the purpose by the vestry, but the Act

does not extend to tanners, &c., killing distempered animals. Sec.

The following summary of the rules in force in several continental cities is of interest in relation to the subject of slaughter-houses :—

(a) That all markets are under strict supervision. (b) That cattle sent to the public markets, and to the public slaughter-houses, are carefully examined by the inspectors or officers appointed for that purpose. (c) That diseased cattle are carefully kept from healthy cattle, and are either destroyed or disposed of in such way as to prevent their communicating disease to other cattle, or being sold for human food. (d) That in all large cities the slaughtering of animals is either conducted in public slaughter-houses, or is so regulated as to ensure the condemnation of diseased meat. (e) That to guard the public against the mischief which arises from the use or consumption of unwholesome meat, the animals destined for food are examined, not only before they are killed, but also afterwards.

The occupier or owner of any licensed or registered slaughter-house must put up a notice of such license or registration, and in default, is liable to a penalty of not more than £5 for such offence, and 10s. a day during which such offence continues. 170

### *Police Regulations.*

Under these sections the U.A. may make provisions— 171–172

1. With respect to obstructions and nuisances in the streets.
2. With respect to fires.
3. Places of public resort.
4. Hackney carriages.
5. Public bathing.

And, also, by-laws for licensing horses, boats, etc., let for hire, the qualification of drivers, etc. Also, the

- Sec. registration of canal boats, and regulations for the prevention of the spread of infectious disorders from canal boats.

*Contracts.*

- 173 Any L.A. may enter into any contracts necessary for carrying this Act into execution. By a statute of William IV., contracts made in conformity with the regulations of the Poor Law Commissioners are not chargeable with stamp duty, but it appears that contracts made by Boards of Guardians as rural authorities are not so exempt.

- 174 With regard to contracts, the following regulations are to be observed :—

1. "Every contract made by a U.A., whereof the value or amount exceeds £50, shall be in writing, and sealed with the common seal of such authority."

2. "Every such contract shall specify the works, materials, matters, or things to be furnished, had or done, the price to be paid, and the time or times within which the contract is to be performed, and shall specify some pecuniary penalty, to be paid in case the terms of the contract are not duly performed."

3. "Before contracting for the execution of any works under the provisions of this Act an U.A. shall obtain from their surveyor an estimate in writing as well for the probable expense of executing the work in a substantial manner, as for the annual expense of repairing the same; also, a report as to the most advantageous mode of contracting, that is to say, whether by contracting only for the execution, and also maintaining the same in repair during a term of years or otherwise."

4. "Before any contract of the value or amount of £100 or upwards is entered into by an U.A., ten days' notice at least shall be given, expressing the nature and purpose thereof, and inviting tenders for the execution of the same, and such authority shall require and take sufficient security for the due performance of the same."

5. "Every contract entered into by an U.A. in conformity with the provisions of this section, and duly executed by the other parties thereto, shall be binding on the authority by whom the same is executed, and their successors, and on all other parties thereto, and their executors, administrators, successors, or assigns to all intents and purposes: Provided that an U.A. may compound with any contractor or other person in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid, whether such penalty is mentioned in any such contract, or in any bond, or otherwise, for such sums of money or other recompense as to such authority may seem proper." Sec.

It must be borne in mind that there is no safety for persons dealing with corporations unless by deed under the seal of the corporation; and where permission has been given to make alterations in any contract, such permission must be under the seal of the corporation, and the secretary or other officer has no independent authority to bind the corporation by letters or documents signed by them, (*Turnbull v. The Guardians of the Bellerican Union*, 18 *L. J. Exch.* 282). Contractors should also take care that the contract is one which the L.A. is empowered to make.

### *Purchase of Lands.*

Any L.A. may, for the purposes, and subject to the provisions of this Act, purchase or take on lease, sell or exchange any lands, whether situated within or without their district. They may also buy up any water-mill, dam or weir, which interferes with the proper drainage of or the supply of water to their district. Any lands acquired by a L.A. in pursuance of any powers in this Act contained and not required for the purpose for which they were acquired, shall, unless the 175

Sec. L.G.B. otherwise direct, be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards discharge, by means of a sinking fund, or otherwise, of any principal moneys which have been borrowed by such authority on the security of the fund or rate applicable by them for the general purposes of this Act; or if no such principal moneys are outstanding, shall be carried to the account of such fund or rate.

It will be noticed that this section empowers Boards of Guardians to purchase lands by agreement without first obtaining the sanction of the L.G.B., which is necessary under the 5 and 6 Will. IV. c. 69, for the purposes connected with the relief of the poor.

176 With respect to the purchase of lands by the L.A. for the purposes of this Act, the following regulations shall be observed, (that is to say)—

1. The Lands Clauses Consolidation Act, 1845-1860 and 1869, shall be incorporated with this Act, except the provisions relating to access to the special Act, and except section 127 of the Lands Clauses Consolidation Act, 1845.

2. The L.A., before putting in force any of the powers of the said L.C.C.A. with respect to the purchase and taking of lands otherwise than by agreement, shall

Publish once at the least in each of three consecutive weeks in the month of November, in some local newspaper circulated in their district, an advertisement, describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require; and shall further

Serve a notice in the month of December on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be

taken, and requiring an answer stating whether the person so served assents, dissents, or is nenter in respect of taking such lands.

3. On compliance with the provisions of this section with respect to advertisements and notices, the L.A. may, if they think fit, present a petition under their seal to the L.G.B. The petition shall state the lands intended to be taken, and purposes for which it is required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are nenter in respect of the taking of such lands, or who have returned no answer to the notice; it shall pray that the L.A. may, with reference to such lands, be allowed to put in force the powers of the said L.C.C.A. with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the L.G.B. requires.

4. On receipt of such petition, and on due proof of the proper advertisement having been published and notices served, the L.G.B. shall take such petition into consideration, and may dismiss the same, or direct a local enquiry as to the propriety of assenting to the prayer of such petition; but until such inquiry has been made, no P.O. shall be made affecting any lands without the consent of the owners, lessees, and occupiers thereof.

5. After the completion of such inquiry, the L.G.B. may, by P.O., empower the L.A. to put in force, with reference to lands referred to in such order, the powers of the L.C.C.A. with respect to the purchase and taking of lands, otherwise than by agreement, or any of them, and either absolutely, or with such conditions and modifications as the Board may think fit; and it shall be the duty of the L.A. to serve a copy of any order so made, in the manner and on the person in which and on whom notices in respect of such lands are required to be served,

Provided that the notices by this section required to be given in the months of November and December may be given in September or October, or of October and November, but in either of such last-mentioned cases an inquiry, preliminary to

Sec. the P.O. to which such notices refer, shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given, and any notices or orders by this section required to be served on a number of persons having any right in, over, or in lands in common, may be served on any three or more of such persons on behalf of all such persons.

177 Any L.A. may, with the consent of the L.G.B., let  
for any term any lands which they may possess, as and  
178 when they can conveniently spare the same. Special  
permission is given by this section to the Chancellor  
and Council of the Duchy of Lancaster, if they think  
fit to contract with any L.A. for the sale of lands be-  
longing to the Duchy of Lancaster.

### *Arbitration.*

179 In case of dispute, the matter in dispute is to be  
settled by arbitration. If the parties cannot agree as  
to the appointment of a single arbitrator, each party  
shall appoint an arbitrator to whom the matter shall  
be referred. The following are the matters for the  
settlement of which arbitration may be sought:—

22 (a) The terms and conditions on which the owner or occu-  
pier of any premises outside the district of a L.A. may connect  
52 his drains with the sewers of the L.A. (b) Disputes as to the  
supply of water for all reasonable purposes to a L.A. by a  
61 water company. (c) The terms on which a L.A. may supply  
150 water to the L.A. of an adjoining district. (d) The division  
of the expenses of paving a private street among the adjoining  
155 owners. (e) Disputes as to the amount of compensation to be  
paid by an U.A. in the case of houses or buildings which have  
been set back or forward in order to regulate the width of  
228 the street. (f) The share of the rates to be paid by the  
308 Universities of Oxford and Cambridge. (g) The amount of  
compensation to be paid to any person who sustains any

damage by reason of the exercise of any of the powers of the Act by the L.A. (h) Disputes as to whether matters or things proposed to be done by L.A. interfere with the improvement of certain rivers, canals, reservoirs, &c., or works or lands connected therewith. (i) Differences of opinion with regard to the consequences resulting from interference with the water supply in certain cases, and the substitution by the L.A. of new sewers, drains, etc., for existing sewers, drains, etc.

Sec.  
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With regard to the appointment of arbitrators certain regulations have to be observed, thus— 180

1. Every appointment of an arbitrator under this Act when made on behalf of the L.A. shall be under their common seal, and on behalf of any other party under his hand, or if such party be a corporation aggregate under their common seal.

2. Notice of appointment must be sent to the arbitrators, and such notice shall be deemed a submission to arbitration by the parties interested.

3. No appointment can be revoked except by mutual consent, nor shall the death of either party operate as a revocation.

4. If one party notifies in writing to the other the appointment of an arbitrator, and such notice be neglected for the space of fourteen days, the arbitrator appointed shall act for both parties.

5. If an arbitrator dies or refuses to act, a new one may be appointed; and if such appointment is not made in seven days, the remaining arbitrator may proceed ex-parte with all the powers vested in arbitrators.

6. If an arbitrator dies or becomes incapable to act before making of his award, or fails to do so within twenty-one days after his appointment, or within such extended time, if any, the matter referred to him shall be again referred to arbitration as if no former reference had been made.

7. Where there is more than one arbitrator, they shall appoint an umpire, who, if refusing to act, another may be appointed, but should the arbitrators neglect to appoint an umpire within seven days, the L.G.B. shall, when required, make the appointment.

Sec. 8. The umpire shall make an award if the arbitrators fail to do so within twenty-one days.

9. The time for making an award shall not be extended beyond the period of two months from the date of submission, and that of the umpire is likewise limited to two months.

10. Both the arbitrators and the umpire must subscribe the following declaration:—*I, A. B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my ability, hear and determine the matters referred to me under the P.H.A. 1875.*

11. The declaration must be affixed to the award, and any acts wilfully done contrary to such declaration shall constitute a misdemeanour.

12. The arbitrators and umpires may demand all documents likely to assist them in making their award, and may examine the parties or their witnesses on oath.

13. Costs of the reference shall be determined by the arbitrators or umpires.

14. Submission to arbitration may be made a rule in any of the superior courts at the application of any parties thereto.

15. The award of the arbitrators, or of an umpire, shall be final.

181 All questions referable to arbitration may, when the amount in dispute is less than £20, be determined at the option of either party before a court of summary jurisdiction, and the court may require a report from an independent surveyor, and determine the amount of costs incurred in that behalf, and by whom such costs or any part of them shall be paid.

### *By-laws.*

By-laws are regulations made by any L.A. or other authority empowered to make them with regard to  
182 certain matters. They must be under the common seal of the L.A. They may be altered or repealed by a

subsequent by-law ; and they are of no effect if repug- Sec.  
 nant to the laws of England or the provisions of this  
 Act : in other words, they must be reasonable. “ A  
 by-law has the same force within its limits, and with  
 respect to the persons upon whom it lawfully operates,  
 as an Act of Parliament has upon the subjects at  
 large.” A by-law requiring snow, etc., to be removed  
 from footpaths, etc., before nine of the clock in the  
 forenoon of each day is not a by-law warranted by  
 statute ; and even a by-law passed by the L.G.B., if  
*ultra vires*, may be quashed by the Court of Queen’s  
 Bench. (Glen.)

The following are the subjects in respect of which  
 by-laws may be made by an urban authority :—

1. The cleansing of footways and pavements adjoining any 44  
 premises. The removal of house refuse from any premises, or  
 the cleansing of E.C.’s, P.’s, A.P.’s, and C.P.’s belonging to any  
 premises, but only where the authority does not undertake or  
 contract for such cleansing or removal.
2. The prevention of nuisances arising from snow, filth, 44  
 dust, ashes, and rubbish, and for the prevention of the keeping  
 of animals on any premises so as to be injurious to health.
3. The fixing and varying the number of lodgers who may 80  
 be received into a common lodging-house, and the separation  
 of the sexes therein ; the promotion of cleanliness and ventila-  
 tion in such houses ; the giving of notices, and taking pre-  
 cautions in the case of any infectious diseases, and generally  
 the well-ordering of such houses.
4. The regulation, registration, inspection, etc., of houses 90  
 let in lodgings.
5. The prevention or diminution of the noxious or injurious 113  
 effects of offensive trades.
6. The management and charges for the use of public mor- 141  
 tuaries.
7. The level, width, and construction of new streets, and 157

Sec. the provisions for the sewerage thereof; the structure of walls, foundations, roofs, and chimneys of new buildings, for securing stability, and the prevention of fires, and for the purposes of health; the sufficiency of the space about buildings, to secure a free circulation of air; and the ventilation of buildings, the drainage of buildings, w.c.'s, earth closets, privies, ashpits, and cesspools in connection with buildings, and the closing of buildings or parts of buildings unfit for human habitation, and prohibition of their use for such habitation, including provisions as to the giving of notices, deposit of plans and section by persons intending to lay out streets or to construct buildings, inspection, and the power to remove, alter, or pull down any work begun or done in contravention of such by-laws.

164 8. The regulation of public walks and pleasure grounds, and the removal therefrom of persons infringing such by-laws.

9. The regulation of the use of the market-place, and the buildings, stalls, pens, and standings therein, and the prevention of nuisances or obstructions therein or in the immediate approaches thereto, the days and the hours during each day on which the market shall be held; the inspection of the slaughter-houses, keeping them in a cleanly and proper state, the removal of filth and refuse from them at least once in twenty-four hours, the provision of a sufficient supply of water, and prevention of the exercise of cruelty in such slaughter-houses; the regulation of the carriers resorting to the market and the rates for carrying articles carried therefrom within the limits of the district, the regulation of the use of the weighing-machine provided, and the prevention of the use of false or defective weights, scales, or measures; also, the prevention of the sale or exposure for sale of unwholesome provisions in the market. (Market and Fairs Clauses Act 1847.)

169 10. The management and use of slaughter-houses provided by U.A.

172 11. The management of stands for horses, ponies, mules, or asses, standing for hire, the rates of hire, the qualification of the drivers and conductors, and their conduct while in charge.

12. The regulation of the numbering and naming of pleasure boats and vessels, the number of persons to be carried therein, and the mooring places for the same, and the rates for hire, and qualification of the boatmen or other persons in charge of them, and their conduct in charge. Sec. 172

13. The lodging and accommodation of persons engaged in hop-picking. 314

14. The preservation and regulation of burial-grounds. Sch. v, 3

A R.A., unless invested with urban powers, can only make by-laws in respect of the subjects numbered 1, 3, 4, 6, 13.

By-laws may be made by U.A. under the Incorporated Towns Improvement Clauses Act, 1847, with respect to the licensing, registering, and inspection of slaughter-houses and knackers' yards, and the prevention of cruelty therein, keeping them in a cleanly and proper state, removing filth from them, and providing them with a sufficient water supply. Under the Towns Police Clauses Act, 1847, for the regulation of hackney carriages (sec. 171), and for the regulation of public bathing on the sea shore or strand of any river used as a public bathing place. Under the Baths and Wash Houses Act, 1845, for regulating the use of and the charges at the baths and wash houses. Also, under the Labouring Classes Lodging Houses Act, 1857, for the management and regulation of the lodging-houses. Urban authorities may also make by-laws regulating the rate of speed and other matters connected with tramways under the Tramways Act, 1870. Model by-laws have been issued by the L.G.B.

A L.A. may impose penalties for a breach of their by-laws, not exceeding £5 for each offence, and for a continuing offence a further penalty not exceeding 40s. 183

Sec. for each day after the L.A. has given written notice of the offence, but such by-laws shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

184 All by-laws made by a L.A. must be confirmed by the L.G.B., and no by-laws shall be confirmed—

(a) Unless notice of intention to apply for confirmation has been given in one or more of the local newspapers circulated within the district to which such by-laws relate one month at least before the making of such application. (b) Unless, for one month at least before any such application, a copy of the proposed by-laws has been kept at the office of the L.A., and open to the inspection of the ratepayers without fee or reward.

The clerk of the L.A. shall, when required by a ratepayer, furnish him with a copy of such proposed by-laws, or any part thereof, on payment of sixpence for any hundred words in the copy.

A by-law required to be confirmed by the L.G.B. shall not require confirmation, allowance, or approval by any other authority.

185 All by-laws made by a L.A. under any of the provisions of this Act, or of any other Act, shall be printed and hung up in the office of the L.A., and any ratepayer can procure a copy without cost; and the by-laws of a R.A. must be transmitted to the overseers of every parish to which such by-laws relate, and be open to the inspection of the ratepayers at all reasonable hours.

A penalty is imposed on anyone defacing or destroying any by-law.

186 A copy of any by-laws made by a L.A., not being the council of a borough, certified as true by the clerk of the L.A., shall be evidence of the confirmation and existence of such by-laws.

By-laws made by the council of any borough, under 5 and 6 Will. IV., c. 76, s. 90, for the suppression of certain nuisances not provided for under any other Act in force in that borough, shall be read as if made under the P.H.A., 1875, and submitted for confirmation to the L.G.B.; but those relating to the better administration of the borough remain under the jurisdiction of the Secretary of State for the Home Department. Sec. 137

The provisions of this Act relating to by-laws do not apply to any regulations which a L.A. may make, but such regulations may be published as the L.A. may see fit. The following are some of the regulations which may be made by a L.A.:— 188

(a) As to the removal to certain hospitals of persons suffering from infectious disorders brought into their district by ships or boats. 115  
 (b) The management of places provided for *post-mortems*. 143  
 (c) The duties and conduct of the servants appointed and employed by a U.A. 189  
 (d) With respect to the powers, etc., of committees appointed by them. 200  
 (e) With respect to the summoning, notice, place, management, and adjournment of the meetings of L.B., and generally with respect to the transaction and management of their business under the Act. Sch. i. 1

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## OFFICERS AND CONDUCT OF BUSINESS OF LOCAL AUTHORITIES.

### *Officers of Local Authorities.*

Every U.A. shall from time to time appoint a medical officer, surveyor, inspector of nuisances, clerk, and treasurer, and any of these appointed under any other Act shall hold office under the P.H.A. They shall also appoint other officers as required to carry 189

Sec. out their duties, and make regulations for their guidance.

Subject, in the case of officers any portion of whose salary is paid out of moneys voted by Parliament, to the powers of the L.G.B. under this Act, the U.A. may pay to officers and servants so appointed or employed such reasonable salaries, wages, or allowances as the U.A. may think proper ; and subject, as afore-said, every such officer and servant appointed under this Act shall be removable by the U.A. at their pleasure.

A police-officer cannot hold office as S.I. The duties of M.O.H., once regulated by by-laws, are now only subject to regulations which do not require confirmation by L.G.B.

The appointment does not bind the L.B. to pay the salary of the officer. (*Bogg v. Pearse*, 10 C.B. 534.) A mandamus or an action on the case is the proper remedy if the salary is withheld ; and where a discretionary power to remove is given, it may be exercised without notice or any statement as to the reasons for removal. (*Reg. v. Governors of Darlington*, 96 T.B. 682.)

190 Rural authorities shall also appoint medical and other officers, and the clerk to the guardians may act with proper remuneration as clerk to the R.A. The assistant clerk may act should the clerk refuse or be unable to act.

191 No person shall be appointed a M.O.H. unless he be a legally qualified medical practitioner ; and the L.G.B. have certain powers with regard to the appointment, duties, salary, and tenure of office of a M.O.H. or

other officer, any portion of whose salary is paid by moneys voted by Parliament, and may, by order, prescribe the qualification and duties of other medical officers appointed under this Act. The same person may, with the sanction of the L.G.B., be appointed M.O.H. or S.I. for two or more districts by the L.A.'s of such districts; and the L.G.B. shall by *order* prescribe the mode of appointment and the proportions in which the expenses of such appointment and the salary and charges of such officer shall be borne by such authorities.

A union medical officer may, when permitted by the L.G.B., act as M.O.H., and an M.O.H. may act as a S.I. In case of illness or incapacity the M.O.H. may, subject to the approval of the L.G.B., appoint and pay a deputy.

With regard to joint appointments, the L.G.B. has issued the following memorandum:—Each of the authorities proposing to combine, shall pass a resolution agreeing to combine with the other authorities in the appointment of the same person as M.O.H. or S.I., as the case may be; and when an arrangement has been arrived at as to the period for which such appointment is to be made, the amount of salary to be paid to the officer when appointed, and the proportions to be borne by each authority, copies of the resolutions embodying the proposals shall be submitted to the L.G.B. for their consideration. If the proposal be sanctioned by the L.G.B., they will then issue the order required by the statute. The order will provide—

(a) For the election of a joint committee to consist of a certain number of members of each authority, upon whom

Sec. the appointment of the officer will devolve. (b) For convening a meeting of the joint committee at which the appointment is to be made in the mode prescribed by the order. (c) For the appointment of clerk of one of the authorities to act as clerk to the committee, for the purpose of conducting the requisite proceedings in regard to the appointment. (d) For the proportions in which the salary and charges of the officer, as well as the expenses of the appointment, including the remuneration of the clerk of the joint committee, shall be borne by the several authorities. (e) For the tenure of office and duties of the officer, and also for his qualification in the case of a M.O.H. (f) For the re-appointment from time to time of the person elected under the order, provided that the sanitary authorities by whom the appointment was made are desirous of continuing his appointment for a further period.

When the appointment has been duly made in pursuance of the order, the clerk of the joint committee should forthwith report the appointment to the L.G.B. for their approval.

192 The same person may be both surveyor and sanitary inspector, but the offices of clerk and treasurer cannot be held by the same person, nor any one employed or any way connected with either of them, under a penalty of £100, recoverable by any person, with costs. The four following sections apply to the officers of both

193 R.A. and U.A., and it is enacted that officers may not be interested in any contract or bargain with the L.A.; and if any officer, under colour of his office, accepts any reward, fees, etc., other than his salary, he shall lose his office, and forfeit and pay a penalty of £50, recoverable by any person, with costs, but the action of a common informer must be brought within one year after the offence.

Any officer or servant before taking office must find security for any money entrusted to him, and make out full and true accounts of all money received by him, and from whom received, and how such money has been spent, and collectors must pay all collections received, within seven days, to the treasurer, and also provide him with a list of the names of all defaulters. Any officer failing to produce any money collected, and after five days' notice in writing fails to give up all books, papers, and other properties belonging to the L.A., application may be made by the L.A. to a J.P., who may inflict a punishment not exceeding six months' imprisonment if the papers, etc., have not been returned, but such proceedings shall not relieve of responsibility any surety for the offender.

*Mode of Conducting Business.*

Every U.A. shall maintain such officers as may be necessary for the conduct of their business; and every U.A., being the council of a borough subject to this Act, shall execute their duties according to the laws in force with respect to municipal corporations in England.

Every U.A., not being the council of a borough, shall hold an annual meeting, and also monthly meetings for the conduct of their business, and meetings of L.B. shall be conducted by the rules directed in schedule I., and I.C. may adopt all, or any of such rules.

Every U.A. may appoint a committee, subject to any regulations the L.A. may make, out of their own number to conduct certain business; but such commit-

Sec. tee shall not be authorised to borrow money, make a rate, or enter into any contract. Such committee cannot delegate their authority to any other person or persons.

201 R.A. have also the power to appoint for one year, and delegate all their powers to a committee consisting wholly of their own members, provided that one-third are ex-officio guardians; but if there are not enough of these, the number deficient may be made up of elected guardians.

202 Any committee formed as above shall have the powers of R.A., and such committee shall be, during the year of office, the R.A. for the district. A R.A. or committee formed as above may appoint a parochial committee for any contributory place within the district, consisting wholly of members of the authority, or partly of these members and partly of such other persons liable to contribute to the rate levied for the relief of the poor in such contributory place, and qualified as the authority may determine. Such R.A. may diminish the number of members or alter the constitution, or dissolve any parochial committee.

The parochial committee must act under the regulations of the R.A., and can only exercise those powers vested in the authority as their agents, and limit their expenditure as defined by the L.A., who must pay any debts legally incurred. The following duties may be assigned to parochial committees:—

(a) To inspect their district from time to time to ascertain whether any works of construction are required or any nuisance requiring abatement. (b) To superintend the execution and maintenance of any works required for the special use of the district. (c) To consider complaints of nuisances and of

the M.O. and S.I., and to inform these officers of any  
 nnisances, and give directions for their abatement. (d) To  
 examine and certify all accounts relating to expenditure in  
 their district. (e) To report to the R.A. from time to time  
 the matters requiring their attention, and the manner in  
 which their officers and servants have discharged their duties. Sec.

Any vacancy occurring in any committee may be 203  
 filled up in six weeks by R.A. out of qualified persons.

The meetings of committees, unless regulated by the 204  
 authority, shall be in accordance with the rules given  
 in Schedule 1.

Inspectors of the L.G.B. may attend the meetings 205  
 of a R.A. or an U.A. (being a L.B.), as directed by the  
 L.G.B. The L.A. of Oxford shall not, for the pur-  
 poses of this section, be deemed a L.B.

Every L.A. shall, on proper forms, make an annual 206  
 report, as directed by the L.G.B., of all works executed,  
 of all sums received, and payments made for the pur-  
 poses of the Act, and shall send a copy to the L.G.B.,  
 and an U.A. shall publish a copy of such report in  
 some local paper.

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## RATING AND BORROWING POWERS, &c.

### *Expenses of Urban Authority, and Urban rates.*

ALL expenses incurred or payable by an U.A. shall 207  
 be charged on, and defrayed out of, the district fund  
 and general rate leviable by them, with certain excep-  
 tions; and the L.G.B. may, on application of the L.A. 208  
 or of ten persons rated to the relief of the poor in the  
 district, by provisional order declare that the expenses

Sec of the L.A. be defrayed out of a district fund or general district rate, to be levied by them under this Act.

*General District Rate.*

209 A "district fund" shall be established, and a "dis-  
210 trict fund account" shall be kept by every U.A.; and besides this fund, when found insufficient for the purposes of this Act, the U.A. may, in writing under their seal, levy a rate or rates, to be called "general districts rates;" and any such rate may be made prospectively or retrospectively, to pay future charges, or those incurred six months before making the rate; and public notice must be given of the intended rate a week before the day on which the rate is made, but to levy or recover the rate so made, it is not necessary to prove that notice was given. The rates so levied constitute a statutable fund, and cannot be applied to any other purposes than those contemplated by the Act. The following are the expenses chargeable on general district rate :—

(a) Expenses of proceedings preliminary to the constitution of L.G.D., Schd. III. (8). (b) Election of L.B., Schd. II. (67). (c) Expenses of sewers, 14-17; of maps, etc., 20; of drains, 24; of supply of sewage, 30; of public conveniences, 39; of examining drains, 41; of proceedings to prevent pollution of streams, 69; of closing cellar dwellings, 75; of legal proceedings in superior courts, for the abatement of nuisances, 107; of disinfection, 120; of conveyance of infected persons, 123; of making new street, 146; of repair of turnpike roads, 148; of repair of street, 149-151; of altering and examining gas-pipes, 153; of lighting streets, 161; of pleasure grounds, 164; of public clocks, 165. (d) Expenses of members and officers, 265; of union of districts, 279. (e) Expenses as a port sanitary authority, 290. (f) Expenses of provisional orders, 298;

compensation for damage, 308 ; or for loss of office, 309. (g) Sec.  
 Expenses of repair of burial grounds, *Schd. V.* (h) Expenses  
 under the Baths and Wash-houses Act; Labouring Classes  
 Lodging-houses Act; Artisans and Labourers Dwellings Acts;  
 the Burial Acts; the Commons Act 1876; and Canal Boats  
 Act 1877.

The following are the provisions with respect to the 211  
 assessment and levying of general district rates under  
 this Act :—

1. To be levied on all property assessable to poor rates, and  
 assessed on the full net annual value of such property as  
 determined by the existing valuation list, or, if no list exist,  
 by the rate for the relief of the poor made next before the  
 making of the assessment under this Act, subject to the fol-  
 lowing conditions, etc. :—

(a) The owner instead of the occupier may at the option of  
 the U.A. be rated, in cases—

Where the rateable value of any premises liable to assess-  
 ment under this Act does not exceed £10:

Where any premises so liable are let to weekly or monthly  
 tenants ; or,

Where any premises so liable are let in separate apart-  
 ments, or where the rents become payable or are collected  
 at any shorter period than quarterly. Provided that  
 where the owner is rated instead of the occupier, he shall  
 be assessed on such reduced estimate as the U.A. deem  
 reasonable, not being less than two-thirds nor more than  
 four-fifths of the net annual value ; and where such  
 reduced estimate is in respect of tenements whether  
 occupied or unoccupied, then such assessment may be  
 made on one-half of the amount at which such tenements  
 would be liable to be rated if the same were occupied and  
 the rate were levied on the occupiers.

(b) The owner of any tithes or any tithe commutation rent-  
 charge, or the occupier of pasture land, market gardens,  
 or lands covered with water or used as a canal, towing-  
 path, or a railway for public conveyance, shall be assessed

Sec. on one-fourth of its net annual value. (c) If property is exempted from rating by any local Act, it shall be also exempt under this Act, unless the L.G.B. by P.O. determine otherwise.

2. Unoccupied houses are rated, but the rate is not charged, but an incoming tenant must pay such portion of the rate proportional to the period of his occupation.

3. If an owner or occupier liable for the rate ceases to hold the premises during the period for which the rate is made, he is only liable to pay in proportion to the time during which he continues to be such owner or occupier; and any one succeeding him during part of said period shall also pay proportionally to the time of occupation.

4. The U.A. may divide their district, and may alter such divisions, and make separate assessments as required by the Act.

212 Any person appointed by the U.A. may inspect and copy from the poor-rate books the rateable value of property for the purposes of assessment, and the keeper of such books refusing to allow of such inspection, or copying, is liable to a penalty not exceeding £5.

### *Private Improvement Rate.*

213 When an U.A. have incurred or become liable for any rate which by the Act or by the L.A. may be declared to be private improvement expenses, such L.A. may make and levy on the occupier of the premises in respect of which the expenses have been incurred a rate sufficient to discharge such expenses, together with five per cent. interest, in such period not exceeding thirty years as the U.A. may determine.

The expenses for the following works may be declared private improvement expenses. When the premises are unoccupied, the owner has to pay the rate till they are again occupied.

(a) The construction of drains from undrained houses to communicate with existing sewers; the construction of a new sewer in certain cases for two or more houses, and drains to empty into it. (b) The provision of W.C., E.C., P., or A.P. for houses. (c) Works rendered necessary by the bad condition of drains, W.C., E.C., P., A.P., or C.P. (d) Works required to supply water to houses. (e) The sewerage, levelling, paving, etc., of streets not repairable by the inhabitants at large in U.D.

Sec.  
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This section provides for the deduction from the rents payable to the landlord of a portion of the rate paid by the occupier. If the rent is not less than the rack-rent, three-fourths of the rate paid may be deducted from the landlord; but if less, then such proportion of three-fourths of the rate as his rent bears to the rack-rent.

Private improvement rates may be redeemed any time before the expiration of the period for which the rate is made, by the owner or occupier paying the balance of the amount expended, and such redemption money must only be spent by the U.A. in paying for the works, or the sum borrowed to meet their cost.

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The cost for repairing highways in a U.D. shall be defrayed by rates made as follows:—

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(a) Where the district is already rated for paving, water supply, and sewerage, then out of the general district rate. (b) When parts of a district are or are not rated for works just mentioned, then a special highway rate is levied in the latter, in the former the expenses are paid out of the general rate. (c) Where there are no public works for water supply, etc., then a highway rate throughout the district must be levied.

Certain other provisions are made in regard to portions of parishes not included in U.D. It shall not be necessary for the U.A., in the case of a highway

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Sec. rate made by them, to do the following acts, or any of them :—

(a) To lay such rate before any J.P., or obtain their allowance. (b) To annex thereto the signature of such U.A. (c) To lay the same before the parishioners assembled in vestry. (d) To verify before any J.P. any accounts kept by them of such highway rates. All other accounts shall be audited as the other accounts of U.A.

*General Provisions as to Urban Rates.*

218 Every U.A., before proceeding to make a general district rate or private improvement rate under this Act, shall cause an estimate to be prepared of the money required for the purposes in respect of which the rate is to be made, showing—

1. The several sums required for each of such purposes.
2. The rateable value of the property assessable.
3. The amount of rate which for these purposes it is necessary to make on each pound of such value.

The estimate so made, after receiving the approval of the U.A., shall be entered on the rate-book at the office, and open to public inspection during office hours; but it shall not be deemed part of the rate, nor in any  
219 respect affect the validity of the same. Any person assessed may inspect the same, and take copies or extracts without charge, and the keeper of such rate must not prevent him, under a penalty of £5. The person refused may prosecute.

220 If the name of the owner or occupier is not known, it will be sufficient to assess and designate him in the rate as “the owner,” or “the occupier” of the premises assessed.

221 An U.A. may amend any rate—

(a) By inserting the name of any person entitled to be assessed. (b) By inserting the name of any one omitted. (c) By removing the name of any one who ought not to be assessed. (d) By raising or reducing the assessment. (e) By altering the rate in the case of any one under or over-rated so as to make the rate conformable to the provisions of the Act. Sec.

No such amendment shall be held to void the rate. Any person aggrieved by such amendment may appeal, and an amended rate is not payable till after seven days' notice has been given the person whose rate has been amended.

All rates made and collected shall be published in the same manner as poor rates, except private improvement rates, and rates may be collected as the U.A. direct. The mode of publication is by fixing a printed or written notice on or near the doors of all churches or chapels in the district on the Sunday next before making the rate, but it has been held that non publication does not invalidate a rate—(*Le Feuvre v. Miller*, 26 *L.J.M.C.* 175). 222

The production of books said to contain any rate made shall be held to be *prima facie* evidence of the making and validity of the rate. This section places the onus of proving the invalidity of the rate on the person disputing it. 223

The U.A. have the power, when any premises are sufficiently drained before the construction of any new sewer laid down by them, to deduct a fair sum from the rate in respect of such premises, and an U.A. may reduce or remit a rate on account of the poverty of the person liable to pay it. 224  
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Nothing in this part of the Act shall affect any lease or agreement made between the landlord and 226

Sec. tenant of any premises ; but where a lease contains a clause for the tenant "to pay and discharge all taxes, rates, assessments, and impositions whatever (except property or income tax) in respect of the said rent, which during the said term should become payable in respect of the said demised premises," it has been held "that the act created a personal duty to be performed by the owner, the amount of which was regulated by the extent of his house property in the street, and that he could not claim the sum which he had to pay upon neglect of this duty from the tenant under the lease." The word "imposition" in the covenant must be interpreted *ejusdem generis* with taxes, rates, assessments, and in respect of the demised premises."— [*Tidswell v. Whitworth*, 15 *L.T. (N.S.)* 574].

- 227 Any limit imposed in a local act does not apply to a rate made for the purposes of the P.H.A. by an U.A.
- 228 Nothing in this Act interferes or alters any liability of the Commissioners of the Universities of Oxford or Cambridge under a local act as to the lighting, repairing, or cleansing of streets and places within the jurisdiction of such commissioners. Any differences on this matter between the universities and the U.A. are to be settled by arbitration, and all rates, contributions, etc., payable under this Act may be recovered from such universities, halls, and colleges, as such rates, etc., may now be recovered from them by virtue of such local act.

### *Expenses of Rural Authority.*

- 229 The expenses of a R.A. in execution of this Act are divided into—1. General expenses. 2. Special expenses.

1. General expenses other than those chargeable on owners and occupiers under the Act are, (a) Expenses of the establishment and officers of R.A. (b) In relation to disinfection. (c) For providing conveyance of infected persons. (d) Other expenses not determined by this Act or order of L.G.B. as special expenses.

This section differs from the corresponding provisions of the S.A.'s, by not including among special expenses the expenses of cleansing and lighting streets in any contributory place when the requisite urban powers have been conferred on R.A. for the purpose. Such expenses will now be general, unless determined by order of L.G.B. This section clearly shows that water-rents or rates levied in a contributory place are to be applied in defraying the cost of providing the water supply for such place. General expenses shall be payable out of a common fund, to be raised out of the poor rate of the parishes according to the rateable value of each contributory place, as required by the Act.

2. Special expenses. (a) For the maintenance and cleansing of sewers in any contributory place within the district. (b) For providing a supply of water to any such place, and maintaining any necessary works for that purpose. (c) For the supply and works, if not defrayed out of water rates or rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the R.A. in trust for any contributory place, and all other expenses incurred or payable by the R.A. in or in respect of any contributory place within the district, and determined by order of L.G.B. (d) Where R.A. make any sewers, or provide water supply, or execute any other work required by this Act for the common benefit of any two or more contributory places, they may divide in a just manner such expenses between the contributory places.

sec. Special expenses shall be a separate charge on each contributory place.

The right of appeal to the L.G.B. is given, within twenty-one days after the assessment is made, to the overseers of any contributory place, and the L.G.B. may make an order settling the dispute.

### *Contributory Places.*

1. Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the S.A.'s, or of this Act, or of an U.D. 2. Every such special drainage district as aforesaid. 3. In the case of a parish wholly situated in a R.D., and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within any special drainage district. 4. In the case of a parish a part of which is situated within an U.D., such portion of that parish as is not comprised within such U.D., or within any such special drainage district as aforesaid.

230 For the purposes of payment of the sums required from contributory places, the R.A. shall issue *separate* precepts for general and special expenses to the surveyor, requiring payment to be made by a certain time, and stating to whom the sums collected shall be paid. The general expenses shall be paid by the overseers out of the poor rate, and for special expenses as required under sec. 229.

The owner of arable meadow or pasture ground only, market gardens, etc., or land covered with water, or canal or railway companies, shall pay one-fourth part only of the rate per pound payable in respect of houses and other property. Further regulations are made as to the duties of overseers, which need not be referred to here.

The R.A. may take proceedings for the recovery of rates from the overseers before two justices acting within the district, and a R.A. may make and levy, as in the case of U.A., a private improvement rate to defray expenses incurred by them. Sec. 231  
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*Borrowing Powers.*

Any U.A. or R.A. may borrow money, subject to the approval of the L.G.B., to defray their expenses under the Act, under the following regulations :— 233  
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(a) Money shall not be borrowed except for permanent works (including any works of which the cost ought in the opinion of the L.G.B. to be spread over a term of years). (b) The sum borrowed shall not at any time exceed, with the balances of all outstanding loans contracted by the L.A. under this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money is borrowed. (c) Where the sum proposed to be borrowed exceeds the assessable value for one year of such premises, the L.G.B. shall not give their consent to such loan unless after inquiry by one of their inspectors in the locality. (d) The money may be borrowed for any time not exceeding sixty years, as the L.A. with the sanction of the L.G.B. may determine. And the L.A. must pay off the money so borrowed by equal annual payments of principal and interest; and they shall every year set apart a sinking fund, invested at compound interest in Government securities, to pay off all borrowed money. (e) The L.A. may apply the whole of the sinking fund to pay their debts, provided that they pay into the fund in each year and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied. (f) Where money is borrowed to pay a previous loan, the time for repayment shall not extend beyond the expired portion of the period for which the original loan was sanctioned, unless with the sanction of the L.G.B., and shall in no case extend beyond sixty years.

Sec. When an U.A. borrows money for private improvement purposes, or for any part of their district, they must pay back as far as they can the money so borrowed out of private improvement rates, or out of a rate levied in such part of the district as aforesaid.

235 Any L.A. may borrow on the credit of sewage land and plant, and may mortgage such lands and plant to any persons advancing such moneys. The powers conferred by this section shall, where the sums borrowed do not exceed three-fourths of the purchase money of such lands, be deemed to be distinct from and in addition to the general borrowing powers conferred on L.A.

Any L.A. may pay out of any rate the interest for money borrowed under this section.

236 Every mortgage may be made one in the form in Schedule IV. of this Act, or to a like effect, and be sealed with the common seal of the L.A.

237 A register must be kept at the office of the L.A. of every mortgage on a rate, which must be entered within fourteen days after the date of the mortgage; and such register must be open to public inspection without fee; and the keeper of such register is liable to a penalty not exceeding £5 for refusing any one wishing to inspect it.

238 A register of transfers of mortgages must be kept, and the clerk of the L.A. shall charge a fee not exceeding five shillings for entering such transfer in the register, and failing to do so the clerk is liable to a penalty not exceeding £20.

239 If at the expiration of six months after the principal money and interest has become due, and after demand

in writing, the mortgagee is entitled, without prejudice Sec.  
to any other mode of recovery, to apply for appointment of a receiver to a court of summary jurisdiction; and such court may, in writing, appoint some person to collect and receive the whole or a competent part of the rates, such money received being for the use of the mortgagee, provided that no such application shall be entertained unless the sum owing to the applicant amount to one thousand pounds.

Rent charge may be granted in respect of advances 210  
made for private improvements to any person lending money to the L.A.

Rent charges shall be registered as mortgages; and 241  
Public Works Loan Commissioners have power to lend 242  
L.A. money on the security of rates. On the applica- 243  
tion of any L.A., and on the recommendation of the  
L.G.B., Public Works Loan Commissioners may lend  
money to L.A. on the security of rates, applicable to  
such purposes, repayable in not more than fifty years  
by L.A., with three and a-half per cent. interest, or  
any other rate may be imposed to enable the loan to  
be made without loss to the Exchequer.

Joint boards, port sanitary authorities, and any L.B. 244  
of any main sewerage district, shall for the purposes of  
their constitution have powers of borrowing on the  
credit of any rate, or on the credit of sewage land and  
plant, and the P.W.L.C. may make a loan to any of  
the above-mentioned authorities.

### *Audit of Accounts of Local Authorities.*

The accounts of the receipts and expenditure under 215  
the Act of every L.A. shall be made up in such form,

Sec. and to such day of the year as the L.G.B. may appoint.

246 Where the U.A. is a town council, the accounts shall be audited by the borough auditors, and published at the same time as the municipal accounts, and the auditors shall be allowed not less than two guineas  
247 for every day they are engaged. Where the U.A. is not the council of a borough, the following regulations are in force:—

(a) Accounts must be audited once a year, as near as possible to the 25th of March, by the auditor of accounts relating to the relief of the poor for the union in which the district of the L.A. is situated, unless such auditor be a member of the L.A., in which case the auditor of an adjoining union may be appointed by the L.G.B. (b) Not less than two guineas per day shall be paid to such auditor, together with his travelling expenses. (c) On the receipt of notice from the auditor, the L.A. shall give at least fourteen days' notice in the local newspapers of the date and place where the audit will be held, and of the deposit of accounts. (d) A copy of the accounts, duly balanced, shall be deposited in the office of the L.A., and be there open to the inspection of all persons interested, during office hours, for seven clear days, and copies may be taken free of charge by such persons, and any officer neglecting to make such accounts, or altering them, or allowing them to be altered, or refusing inspection of them, shall be liable to a penalty not exceeding £5. (e) The auditor, by summons in writing, may require the production of all books, receipts, &c., and any person holding them may be required to make and sign a declaration as to their correctness, and any person refusing to produce them, or to sign the declaration, shall incur a penalty, for neglect or refusal, not exceeding 40s., and if he wilfully makes a false declaration he shall be guilty of wilful and corrupt perjury, and punished accordingly. (f) A ratepayer may be present at the audit, and make objections to such accounts before the auditor, and ratepayers have a right of appeal against the allowances of the auditor. (g) The auditor may disallow any account

contrary to law, and surcharge the same on the person making or authorising the illegal charge. (h) Any person aggrieved by disallowance may apply to the Court of Queen's Bench, or to the L.G.B. (i) Every sum certified by the auditor due to the L.A. must be paid within fourteen days, unless there is an appeal, and in case of default, where there is no appeal, the auditor shall recover the same by the usual process. (j) Within fourteen days after the audit, the auditor shall report to the L.A. the results of his audit, and send a copy to the clerk of the L.A., an abstract of which is to be published in the local newspapers. Sec.

The audit of the accounts of I.C. shall be conducted according to the provisions of this Act, although repugnant to a local act constituting I.C.

The accounts of R.A. are to be audited by the same persons, and in the same manner as the accounts of guardians under the Acts for the relief of the poor. 248

The accounts of overseers, collecting or paying any money for the purposes of this Act, shall be audited as those of overseers for the relief of the poor, and an auditor shall have like powers as under the Acts relating to the relief of the poor, and persons aggrieved by the decision of the auditor have like rights and remedies as in the last section. This section provides for the taxation of the bill of any solicitor employed by the L.A. on application to the clerk of the peace of the county where the district is situated, and the taxing of the bill shall be *prima facie* evidence of the reasonableness, *not* of the legality of the charge. Such clerk of the peace shall be allowed the rate fixed by the Master of the Crown Office, and declared by order of the L.G.B. If not taxed, the decision of the auditor shall be final. The accounts of officers or assistants of a L.A. are also subject to audit. 249 250

Sec.

## LEGAL PROCEEDINGS.

*Prosecution of Officers, and Recovery of Penalties.*

251 ALL penalties, expenses, costs, etc., are to be recovered in a summary manner, as directed by the Summary Jurisdiction Acts, before a court of summary jurisdiction, which shall be constituted by the presence of two or more justices in petty sessions, and sitting in a duly appointed place, or by some magistrate or officer empowered by law, to do alone any act authorized to be done by more than one justice sitting in any place appointed for the administration of justice. A stipendiary magistrate may thus act.

252 Any complaint or information must be made within six months from the time the matter complained of arose, and a description of any offence in the words of  
 253 this Act shall be sufficient in law; and without the consent of the Attorney-General, proceedings shall not be taken out for the recovery of any penalty other than by the party aggrieved, or by the L.A. of the district, but such consent shall not be required to proceedings relating to nuisances or offensive trades, authorized to be taken out by L.A. in respect of any act or default committed or taking place without their district, or in respect of any house, building, manufactory, or place without their district.

A police constable cannot arrest or prosecute an offender under the incorporated provisions of the Towns Police Clauses Act, 1847, unless authorised  
 254 by the U.A., or unless he is a person aggrieved. A penalty under this Act, unless otherwise provided for, shall be shared equally between informer and L.A.,

but the L.A. receive the whole penalty when they are the informers, and all penalties must be paid over to their treasurer, and placed to the general fund of the L.A. It shall be lawful for Her Majesty to remit all penalties, but it shall not be lawful for the justices or court to impose a lesser penalty than the lowest imposed by any Act of Parliament. Sec.

Where a nuisance is caused by two or more persons, the L.A. may proceed against one or more of the persons causing the nuisance, and the costs may be distributed as may appear equitable to the court having jurisdiction. The death of one of the parties shall not affect the responsibility of the rest, and proceedings may simply be taken out against the "owner" or "occupier." Persons proceeded against may recover contribution in any case in which they would be entitled to contribution. The U.A. may take summary proceedings before a court of summary jurisdiction for the recovery of rates not paid after fourteen days demand for them in writing has been made, or if the the person liable quits, or is about to quit, the premises assessed without payment. In the case of a bankrupt, rates due before the order of adjudication must be paid from his estate before his other debts. If the defaulter does not pay or appear, the court may make an order of distraint, with costs, on his goods and chattels. On account of poverty the L.A. may remit the rate. 255  
256

Where any L.A. have incurred expenses for which the owner of premises is liable, such expenses may be recovered from the owner, together with interest, not exceeding five per cent. per annum, from the date of 257

Sec. service of a demand for the same till payment thereof, and such debt shall be a charge on the premises.

In all summary proceedings by L.A. for the recovery of private improvement expenses, the time within which such proceedings may be taken shall be reckoned six months from the date of the service of the notice of demand. Where such expenses have been settled and apportioned by the surveyor of the L.A. as payable by such owner, such shall be binding on the owner, unless appealed against in writing within three months from service of notice on him by L.A.

The L.A. may order any such expenses to be payable by annual instalments, within a period not exceeding thirty years, at five per cent. interest, until the whole is paid; and such instalments, with interest, may be recovered in a summary manner from the owner, and may be deducted from the rent of such premises in the same manner as allowed in the case of private improvement rates.

258 No J.P. shall be deemed incapable of acting in cases arising under this Act by reason of his being a member of any L.A., or a rate-payer, or as one of any other class of persons liable, in common with others, to contribute to, or benefited by, any rate or fund out of which expenses of L.A. are to be defrayed. Still, any direct pecuniary interest, however small, in the subject-matter will disqualify a justice from acting judicially in the matter, but mere possibility of bias does not of necessity invalidate his decision.

259 Any L.A. may appear before a court in any legal proceedings by their clerk or any other officer, or by a member appointed by such L.A.; and any of the above

may institute and carry on any legal proceedings of the L.A. Sec.

The L. B. being a fluctuating body, all actions should be brought and defended in the name of the clerk of the L.A. The name of the L.A., or the constitution or limits of their district, need not be proved in any legal proceedings, provided that the right of the defendant to take or avail himself of any objection which he might have taken or availed himself of if this Act had not been passed, is not affected. 260

Demands below £50 may be recovered in a county court instead of in a summary manner. 261

Proceedings under this Act are not to be quashed for want of form, or (unless otherwise expressly provided by this Act) be removed or removeable by certiorari, or any other writ or process whatsoever, into any of the superior courts. A case stated for the opinion of a superior court, or any special case, may, however, be so removed. Any person giving false evidence on oath or affirmation is punishable for perjury. 262

One month's notice of action must be served in writing to L.A. before proceedings are begun, and such notice must clearly state the cause of action, the name and residence of the plaintiff, and of his attorney or agent; and on the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the notice so served; and unless such notice is proved, the jury shall find for the defendant. 263

Every such action shall be begun within six months after the accruing of the cause of action, and not after-

Sec. wards, and shall only be tried in the county or place where the cause of action occurred.

Any person to whom notice of action is given may tender amends to the plaintiff at any time within one month from the receipt of the notice, which, if not accepted, the defendant may plead such tender in bar; and where amends have not been offered or are insufficient, the defendant may pay into court, by leave of the court, at any time before the trial under plea, such sum as he thinks proper; and if judgment be given for the defendant, or the plaintiff non-suited, the defendant shall be entitled to full cost of suit.

265 This section gives protection to L.A. and their officers from personal liability, except the liability of any member to be surcharged with the amount of any payment, which may be disallowed by the auditor, in the accounts of such L.A., and which such members authorised, or joined in authorising. Individual members of a L.B. are not personally liable for any debt of the board.

### *Notices.*

266 Notices, orders, etc., may be printed or written, or partly written or partly printed, and the signature of the clerk, surveyor, or S.I. shall be sufficient authentication. 267 Notices, etc., must be served at the residence of the person to whom they are addressed, or where addressed to the "owner" or "occupier," to some person on the premises, or if no one can be found, then by fixing the same on some conspicuous part of the premises; or they may be served by post, proof being required of posting.

*Appeal.*

Sec.

Any person feeling himself aggrieved by the decision of a L.A. in respect to the summary recovery of expenses, or in declaring of expenses as private improvement expenses, may, within twenty-one days' notice of such decision, memorialise the L. G. B., and the order of the board shall be binding. During the appeal all proceedings shall be stopped, and the board may order the L.A. to pay to the person proceeded against compensation for any loss sustained by him. Any person aggrieved may appeal to the quarter sessions, subject to the following regulations :—

268

269

- (a) The appeal must be made to the next court of quarter sessions holden not less than twenty-one days after the demand for the rate or decision of the court appealed against.
- (b) The appellant must give fourteen days' notice to the L.A. or court of summary jurisdiction, after the cause of appeal has arisen, of his intention to appeal, and of the ground thereof.
- (c) The appellant must, before a justice, give sufficient sureties to abide the judgment of the court, and to pay such costs as may be awarded by the court, or find security for the same.
- (d) The appellant, if in custody, may be released on bail.
- (e) In appeal against rates, the court has the same power of amending or quashing a rate of assessment, and of awarding costs, as a court of quarter sessions has in appeals against poor rates, and the costs may be recovered in the same manner: provided that, notwithstanding the quashing of any rate appealed against, all moneys charged by such rate shall, if the court of appeal think fit so to order, be levied as if no appeal had been made, and such moneys, when paid, shall be taken as payment on account of the next effective rate for the purposes in respect of which the quashed rate was made.
- (f) In the case of other appeals, the court of appeal may adjourn the appeal, and on the hearing thereof may confirm, reverse, or modify the decision of the court of summary jurisdiction,

Sec. or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just. (g) The decision of the court of appeal shall be binding on all parties, provided that the court of appeal may, if such court thinks fit, state the facts, especially for the determination of a superior court.

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## ALTERATION OF AREAS AND UNION OF DISTRICTS.

### *Alteration of Areas.*

270 THE following enactments shall be made as to the alteration of areas :—1. The L.G.B. by P.O. may—

(a) Dissolve any L.G.D., and merge it into some other U.D. or R.D. (b) Declare the whole or any portion of L.G.D., or R.D. adjoining a L.G.D., to be included in the last. (c) Declare any portion of L.G.D. immediately adjoining a R.D. to be included in the R.D.

Thereupon the included area shall be deemed to form part of the district in which it is included ; and the remaining part of the L.G.D. or R.D. affected by such order shall continue subject to the like jurisdiction as if such order had not been made, or until by P.O. the L.G.B. otherwise directs. 2. If a borough comprises in its area the whole of an I.A.D., the L.G.B. by P.O. may dissolve such district and transfer to the council of the borough all or any of the powers of the I.C. of such district. 3. The L.G.B. may, by order, dissolve any special drainage district constituted before or after the passing of the Act, in which a loan for the execution of works has not been raised, and merge it in the

parish or parishes in which it is situated ; but where a Sec. loan has been effected, a P.O. is required.

The L.G.B. may by P.O. declare any R.D., or por- 271  
tion or portions of such district, to be a L.G.D., subject  
to the jurisdiction of a L.B., and by *order* such new  
district may be divided into wards for the election of  
the members of L.B.

In pursuance of a resolution of owners and rate- 272  
payers in any R.D. having a known boundary, the  
L.G.B. may, by order, constitute a L.G.D. under the  
jurisdiction of a L.B. In any place constituted as  
above without a known boundary, the L.G.B., on peti-  
tion stating the proposed boundaries, signed by one-  
tenth of those rated to the poor, may settle its  
boundaries, after local enquiry, and apportion the  
expenses, and henceforth such a place shall be deemed  
to be a place with a known and defined boundary.

A parish is a place "having a known and defined  
boundary," but a parliamentary borough is not such a  
place.

Where not less than one-twentieth of the owners 273  
and rate-payers of any place (such twentieth to be one-  
twentieth in number of the owners and rate-payers of  
the place taken together, or the owners and rate-payers  
in respect of one-twentieth of the rateable property in  
the place), proposed to be formed into a L.G.D., object  
to such proposal, they may present a petition to the  
L.G.B., and state the grounds of their objections. The  
petition must be sent in within six weeks from the  
date of the passing of the proposal objected to, and  
must be signed by a twentieth of the owners and rate-  
payers of the *whole* district. The L.G.B. may then,

Sec. after a local inquiry, make order with respect to the matter in question, which order shall be binding on the place in respect of which it was made.

274 Any owner or rate-payer who disputes the validity of the vote for the adoption of the resolution, may appeal within six weeks from the declaration of the decision of the meeting to the L.G.B., who may, after local inquiry, make an order as they deem necessary.

The objector must give fourteen days' notice, specifying the nature of his objection, and of his intention to make the same, and no objection shall be admissible after the expiration of six months from the constitution of the district.

275 Every order made by the L.G.B. shall specify a day on which such order shall come into operation, and from which the L.A. shall date the exercise of its functions, provided that in the constitution of a new L.G.D. the former authorities shall act till the day of the first meeting of the L.B., held not more than ten days after the election of the board, for the district so constituted. The order may also provide for the adjustment of all claims and liabilities, and also the number of members to be elected for the district when altered. The L.G.B. may include in the same order provisions for the dissolution of one district and for the inclusion of the whole or or any part of such district in any other district or districts.

276 The L.G.B. may, on application of a R.A. or rate-payers in the district, invest the L.A. with all or any of the powers, rights, duties, etc., of an U.A., provided that an order of the L.G.B., made on the application of one-tenth of the persons rated to the relief of the

poor in any contributory place, shall only affect that place. Sec.

A R.A., by resolution to be approved by the L.G.B., but not otherwise, may constitute any portion of their district a special drainage district, for the purpose of charging thereon exclusively the expenses of works of sewerage, water supply, or other works, which by this Act, or order of the L.G.B., may be declared to be special expenses, and thereupon such area shall become a separate contributory place. 277

On the application of any U.A., being an L.B. or I.C., the L.G.B. may, by order, after local inquiry, settle any dispute as to the boundaries of the district of the U.A., and such order published in the local papers shall be final as to the matters to which it relates. 278

### *Union of Districts.*

On the application of either U.A. or R.A., or where such appears to be of advantage to the authorities, the L.G.B., by provisional order, may unite such for the purpose of— 279

- (a) The procuring a common supply of water.
- (b) The making a main sewer, or carrying into effect a system of sewerage for the use of all such districts or contributory places.
- (c) For any other purposes of the Act.

All costs, charges, etc., in the formation of the united district, shall be a first charge on the rates leviable in the united district.

Two or more authorities may combine—

- (a) In providing a common hospital. 131, 235
- (b) For the purpose of executing or maintaining works. 61
- (c) For the purpose of one authority supplying an adjoining authority with water, or that the sewage of one shall be used by the other. 28

Sec. The L.G.B. may unite districts for the appointment  
280 of one medical officer. The governing body of a united district shall be a joint board consisting of *ex officio* and elective members as the L.G.B. in the P.O. forming the district may determine. A joint board shall be a body corporate, bearing the name determined in the P.O., have a perpetual succession and a common seal, with power to hold lands without any license in mortmain.

281 The P.O. forming a united district shall define—

(a) The purposes for which the district is formed. (b) The powers, duties, liabilities, etc., which the joint board is authorised to perform. (c) Regulations as to the qualification and mode of election of elective members. (d) The period of office and the method of filling up of casual vacancies, and the times of meeting. (e) The regulations relating to their officers, and any matter or thing which the L.G.B. may think proper.

The board on formation takes all the duties, etc., of its component parts, but the joint board may delegate the exercise of its powers to the L.A. of any component  
282 district. The meetings of the joint board shall be conducted according to the rules in Schedule I., unless  
283 regulated by the order forming the board. All expenses of joint board, unless determined by P.O., shall be defrayed out of a common fund contributed by the component districts in proportion to the rateable value of the property in each district according to the valuation lists. For the purpose of obtaining payment the  
284 joint board shall—

(a) Issue a precept to the L.A. of each component district stating the sum to be contributed by such L.A., and stating a time within which such payment shall be made, and to whom. (b) Recover the sums mentioned in the precept in

cases of failure on part of L.A. In the case of a R.A., such Sec.  
 contribution shall be deemed to be general expenses. (c)  
 Collect, in a summary manner, within the district of a default-  
 ing authority, such sum as may be sufficient to pay the sum  
 due. (d) In contributory places issue precepts and recover  
 amounts due as if such places formed a rural district, and the  
 joint board were the authority thereof.

Any L.A. may, with the consent of another L.A. of 235  
 adjoining district, execute works in such district as  
 they would in their own, and two or more local  
 authorities may combine to execute works, etc., and all  
 expenses incurred shall be deemed to be expenses  
 incurred by them in the execution of works within  
 their district.

Where it appears that expenses may be saved and 236  
 other advantages gained, the L.G.B. may of themselves,  
 or on representation made to them, unite several author-  
 ities for the appointment of a M.O.H., and make  
 regulations—

(a) As to the mode of his appointment and removal by the  
 representatives of the contributing districts. (b) As to the  
 periods for the meeting of the several representatives. (c)  
 The expenses of the appointment, and the salary and the  
 expenses of such officer. (d) Other matters, including ex-  
 penses of such representatives, which the L.G.B. may deem  
 necessary.

No other M.O.H. shall be appointed for any con-  
 stituent district, except as assistant to the officer  
 appointed for the united districts: Provided, also,  
 that no U.D., with a population of 20,000 or more, or  
 (in the case of a borough) having a separate court of  
 quarter sessions, shall be included in such union of  
 districts unless with the consent of the L.A. of such  
 district or borough. Twenty-one days' notice of the

Sec. making of the proposed *order* shall be given by the L.G.B. to each authority, and, if during that period no objection is made, the L.G.B. may include such district by *provisional order*, but not otherwise.

The local medical officer of any union in the united district may, at the request of the L.G.B., render any assistance required to the M.O.H., and shall be remunerated for his trouble by the L.A. of the district, with the approval of the L.G.B.

### *Port Sanitary Authority.*

287 The L.G.B. may, by P.O., permanently constitute—

(a) Any L.A. whose district, or part of whose district forms part, or abuts on any part of a port in England, or the waters of such port. (b) Any conservators, commissioners, or other persons having authority in, or over such port, or any part of it, and known as the “riparian authority,” to be the port sanitary authority.

Two or more riparian authorities may, by P.O., be made the P.S.A., or a joint board formed of representatives of any two or more riparian authorities. The L.G.B. may, moreover, by P.O., permanently constitute a P.S.A. for any two or more ports, by forming a joint board consisting of representative members of any riparian authorities having jurisdiction on such ports. Before such P.O. is confirmed, the L.G.B. may, by *order*, temporarily constitute such authority, and may from time to time renew the order. Any order constituting a P.S.A. may contain all regulations and assign all duties, etc. A port shall mean a port as established for the purposes of the laws relating to the customs of the United Kingdom.

The jurisdiction of a P.S.A. extends to all waters within the limits of such port, and such authority may, with the sanction of the L.G.B., delegate their powers to any riparian authority within their district, but, except in so far as such delegation may extend, no other L.A. may act. Any expenses incurred by a P.S.A. constituted temporarily for carrying out any purposes of this Act, shall be defrayed out of a common fund to be contributed by riparian authorities as the L.G.B. thinks just. Such P.S.A., if itself a L.A., shall raise the proportion of expenses due in respect of its own district in the ordinary manner for the purposes of the Act. The P.S.A. may issue a precept to contributory riparian authorities requiring payment of contributions within a limited time, and such contribution shall be a debt, and may be recovered accordingly, and in the case of R.A. such contribution shall be deemed general expenses of that L.A. The P.S.A. may, instead of taking proceedings to recover such debt, proceed in a summary manner to raise, within the district, sufficient funds to pay the debt of the defaulting L.A. The L.G.B. may declare, in a conjoined authority, one or more of such authorities exempt from contributing to the expenses of such P.S.A.

The mayor, aldermen, and commons of the City of London shall be the P.S.A. of London, and shall pay out of their corporate funds the expenses of the authority. Any P.S.A. may raise money in any defaulting authority, and may levy a rate on individual ratepayers if the defaulting authority have such power; in fact, the P.S.A. acts in every way as the defaulting author-

Sec. ity is empowered to act, and they may also charge any sum not exceeding ten per cent. on the debt to pay expenses of collection.

## LOCAL GOVERNMENT BOARD.

### *Inquiries by Board.*

- 293 The L.G.B. may from time to time cause inquiries to be made, the subject of these are given on page 5.
- 294 The Board may also make *orders* as to the cost of inquiries, and as to methods of payment, and such order may be made a rule in one of the superior courts.
- 295 All orders are binding and conclusive in respect of the matters to which they refer, and may be published as
- 296 the Board may direct. The inspectors of the Board, for the purposes of inquiry, may summon witnesses, and order the production of documents, accounts, etc., under the same powers as poor law inspectors under the Acts for the Relief of the Poor.

### *Provisional Orders.*

- 297 The following are the enactments with regard to provisional orders :—

(a) No P.O. shall be made by the L.G.B. unless due notice of its purport be given by advertisement in a local paper of the district for two successive weeks. (b) Before making P.O., the L.G.B. shall hear all objections, and, if necessary, cause a local inquiry, of which public notice must be given as above. All persons may attend and make objections. (c) The L.G.B. may submit P.O. to Parliament for confirmation, but no P.O. shall have any force till so confirmed. (d) If, while a bill confirming any P.O. is before Parliament, objection is made to it, the P.O. may be referred to a select committee, and the peti-

tioner shall be allowed to appear and oppose it, as in the case of private bills. (e) Any Act confirming a P.O. may be repealed, altered, or amended by P.O. confirmed by Parliament. (f) The L.G.B. may revoke wholly or partially any P.O. before confirmation, but such revocation shall not be made whilst the order is in any House of Parliament. (g) The making of P.O. shall be *prima facie* evidence that all regulations regarding it have been carried out. (h) Every Act confirming a P.O. shall be deemed to be a public general Act. Sec.

The reasonable expenses of any L.A. in any way connected with a P.O. are to be paid, and the L.G.B. may allow L.A. to contract a loan for the payment of costs. 298

*Power of Board to enforce performance of Duty by Defaulting Local Authority.*

If L.A. is in default of any of its duties, the L.G.B., after due inquiry, may order the L.A. to perform its duties within a given time, which if not complied with, the order may be enforced by mandamus, or the L.G.B. may appoint some other person to act, and direct all expenses for the work to be paid by L.A., and also the reasonable expenses of the person acting, and all cost of proceedings. And such order may be removed into the Court of Queen's Bench, and enforced by the court. Any person so appointed shall exercise all the powers possessed by the L.A. All of the above expenses shall be deemed to be proper expenses incurred by the L.A., and payable out of the rates, etc. 299

If L.A. refuses to pay, the L.G.B. may empower any person with all the powers of L.A. to levy and collect the rates, sufficient to pay all expenses. The Board have also power to borrow money to defray the expenses of defaulting L.A.—the Public Works Com- 300  
301

Sec. 302 missioners lending the money—and the principal and interest may be recovered from the L.A., and any surplus from rates, after loan and expenses have been settled, shall be paid over to the L.A.

*Powers of Board in relation to Local Acts, &c.*

303 The Board may, on the application of L.A. by P.O., alter or amend any local Act, other than an Act for the conservancy of rivers, and not conferring powers and privileges on any person for his own pecuniary benefit, which relates to the same subject matters as this Act.

Any P.O. may provide for the extension of the Local Act, and permit L.A. to enjoy the privileges so extended.

304 The L.G.B. may, by order, settle any differences arising out of the transfer of powers or property to L.A., provided that where any such order directs any rate to be made, or other act or thing to be done, which the party required to make or do would not, apart from the provisions of this Act, have been enabled to make or do by law, such order shall be provisional only until it has been confirmed by Parliament. Any settlement under this section may be included in a P.O.

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MISCELLANEOUS AND TEMPORARY PROVISIONS.

*Miscellaneous.*

305 The L.A. may have recourse, after notice to owner, etc., to a court of summary jurisdiction when any

owner or occupier of lands refuses to allow L.A. to enter his lands for any of the following purposes :—

(a) Making plans, surveying, measuring, taking levels. (b) Making, keeping in repair, or examining works. (c) Ascertaining the course of sewers or drains. (d) Ascertaining or fixing boundaries.

If no sufficient cause is shown against the application, the court may make an order allowing the L.A. to enter the grounds for any of the above purposes at all reasonable times, between the hours of nine in the forenoon and six in the afternoon, provided that, except in case of emergency, no entry shall be made, or works commenced, unless at least twenty-four hours' notice of the intended entry, and of the object thereof, be given to the occupier of the premises. Such entry may now be made for making works, or keeping them in repair.

Any person who obstructs any person employed by the L.A. in the execution of this Act, or who pulls down or injures any board on which a by-law is inscribed, shall be liable to a penalty not exceeding £5, and any occupier preventing the owner from obeying or carrying into effect any provisions of this Act, shall be liable to a penalty not exceeding £5 for every day during refusal. Any occupier refusing to give the name of the owner, or wilfully gives a wrong direction, shall be liable to a penalty not exceeding £5. 306

Any person who wilfully damages any property belonging to the L.A., where no other penalty is provided, shall be liable to a penalty not exceeding £5. Any person, not himself in default, who sustains any damage by reason of the exercise of any of the powers 307

Sec. of this Aet, full compensation shall be made, and any dispute shall be settled by arbitration; and if the compensation claimed does not exceed £20, the same may, at the option of either party, be ascertained by and recovered before a court of summary jurisdiction.

309 This section enacts that any officer deprived of an office under any local act repealed by the P.H.A. 1875, and does not obtain an office under this Aet, the L.G.B. may award a compensation which it thinks just, either by annuity or otherwise, to be paid by the L.A. out of the rates in the district where the officer  
310 held his appointment. In cases in which an I.A.D. or L.G.D. becomes a borough, all the powers and duties of the former authorities shall be vested in the council of such borough, and when the powers of any L.B., I.A.C. be transferred to an U.A., such transference shall include all the powers, duties, etc., the authorities enjoyed as a burial board under any general Act of Parliament.

311 Any L.B., after the passing of this Aet, may, with the consent of the L.G.B., change its name, and publish as the Board may direct, but no such change of name shall in any way affect the duties or liabilities of the L.B., and all proceedings commenced, or pending,  
312 shall proceed as if no change had been made. The retirement and mode of election of members of any L.A. invested by any local Act with powers of town government and rating, whose retirement and mode of election were at the time of the passing of this Aet regulated by the L.G.A.'s, shall be regulated by the rules for election of local boards in schedule II. of this Act, but shall not affect the qualification fixed by the

local Act, or the qualification and tenure of office of any *ex officio* members of such L.A. The corresponding provisions of this Act shall be considered as substituted for the analogous provisions of the repealed sanitary or local acts. L.A. may make by-laws for the decent lodging and accommodation of hop-pickers.

The following are some of the main points in the by-laws sanctioned by the L.G.B. for hop-pickers:—

1. *Habitations to which by-laws apply*.—All tents, sheds, barns, hopper-houses, etc., used from time to time for lodging hop-pickers, but such by-laws shall not extend to any building occupied as a dwelling-house, or for human habitation, from time to time during the year.

2. *Construction, ventilation, and lighting of habitations*.—Such habitations shall be constructed and maintained so as to be thoroughly clean, dry, and waterproof during use. They must be properly ventilated, and where practicable sufficiently lighted.

3. *Allowance of floor space*.—Sixteen square feet at least available floor space as a sleeping place for each adult person. Two children under 10 years of age may be counted as one adult.

4. *Provisions of screens for beds*.—Every bed for adults of different sexes shall be properly separated from the adjoining bed by a suitable screen or partition, of such material, construction, and size as to secure adequate privacy to the occupant of the bed.

5. *Cooking-houses*.—A suitable cooking-house, properly covered or sheltered, must be provided in connection with such habitation, and each cooking-house must have a fireplace for every fifteen persons, and places for the drying of clothes, etc., may be provided.

6. *Water supply*.—A good supply of water for cooking, washing, or other purposes, must be supplied, and be readily accessible.

7. *Bedding*.—Clean dry straw, or other clean, dry, and suitable bedding is to be supplied, and such straw, or other

Sec. bedding must be changed or properly cleansed from time to time as occasion may require.

8. *Cleansing of habitations and removal of filth.*—The interior of every habitation, cooking-house, privy or other premises, must be cleansed immediately before any person shall be received to lodge therein, and from time to time during occupation. The walls and ceilings of every room constructed of brick, stone, iron, concrete, wood, earth, or plaster, shall be well limewashed at least once a year, and all deposits of filth or offensive matter removed from the premises, and the land immediately surrounding them.

9. *Privies.*—These must be provided for both sexes, with due regard to decency.

10. *Penalties.*—Any one offending against these by-laws shall, for every offence, be liable to a penalty of £5, and a continuing penalty of 10s. for every day during which the offence shall continue after notice in writing from the L.A. Provided that the Justices or Court may reduce the penalty if they see fit.

315 All by-laws made under the Sanitary Acts inconsistent with the provisions of this Act, are repealed.

316 In the construction of the provisions of any Act incorporated with this Act, the term "the Special Act" includes this Act, and in the case of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, any order confirmed by Parliament, and authorising the purchase of land otherwise than by agreement under this Act, the term "the limits of a special Act" means the limits of the district; and the U.A. or R.A. shall be deemed to be "the promoters of the undertaking," "the commissioners," or "undertakers," as the case may be. All penalties incurred under any Act, incorporated with this Act, shall be recovered and applied  
317 as penalties under this Act. The schedules to this Act shall be read and have effect as part of this Act,

and the forms in Schedule IV. shall be sufficient for all purposes. Sec.

*Temporary Provisions.*

Nothing in this Act shall affect the rights or position 318  
of any clerk or treasurer whose office is regulated by  
sec. 12 of the P.H. 1872. Nothing in this Act shall 319  
affect the making or levying of any special district  
rates or the payment of loans, or recovery of rates  
under the L.G.A. in force at the time of the passing  
of this Act. The division of expenses between land- 320  
lord and tenant to be paid, in the case of a council of a  
borough, out of the borough funds or rates before the  
passing of the P.H. 1872, may, on application of either  
landlord or tenant to the L.G.B., be maintained as at  
the passing of the last-mentioned Act. Securities for 321  
loans under the Sanitary Acts shall not be invalid by  
reason of the sum having been made repayable within  
a less period than the period so limited.

Where by any local Act powers are conferred on any 322  
turnpike trustees for any purposes the same as, or  
similar to, any of the purposes of the Sanitary Acts  
or of this Act, such trustees shall not be deemed to be  
an U.A. under this Act, but all powers, etc., under  
such local Act for such purposes shall be transferred  
to the L.A. within whose district the area to which  
such local Act applies is contained.

The L.G.B. may, by P.O., without application pre- 323  
vious to the making of the order, dissolve any district  
constituted under the P.H. 1848, for the purpose of  
main sewerage only, or a district formed under a joint  
sewerage board by the Sewage Utilization Act 1867,

- Sec. or the Board may constitute such district a united district, subject to a joint board, under this Act. Until the order is so made the former authority remains in power, provided that the provisions of this Act, similar to those of the repealed Sanitary Acts, shall be deemed to be substituted for these enactments. Any order under this section may include the adjustment of any disputes, liabilities, etc., of the authorities
- 324 affected by the order. The accounts of any U.A. or R.A. under the Sanitary Acts, not audited at the passing of this Act, shall be audited under this Act.
- 325 The power conferred by sec. 20 of the P.H. 1872, of temporarily constituting a P.S.A. shall be deemed to have authorised a renewal from time to time of any order made under that section.
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## SAVING CLAUSES, AND REPEAL OF ACTS.

### *Saving Clauses.*

- 326 THIS section provides for the continuance of all the authorities existing before the passing of the Act, and the maintenance of all the officials connected with them. All by-laws made under former Acts not inconsistent with the provisions of this Act are still in force, and the liabilities of the authorities are not affected.
- 327 Nothing in this Act shall be construed to authorise any L.A.—

1. To use, injure, or interfere with any sluices, flood-gates, sewers, groynes, or sea defences, or other works already or hereafter made under the authority of any commissioners of sewers appointed by the crown, or any sewers or other works already or hereafter made, and used by any body of persons

or person for the purpose of draining, preserving, or improving land under any local or private Act of Parliament, or for the purpose of irrigating land ; or,

2. To disturb or interfere with any lands or any property vested in the Lord High Admiral of the United Kingdom, or the commissioners for executing the office of the Lord High Admiral for the time being, or in Her Majesty's Principal Secretary of State for the War Department for the time being ; or,

3. To interfere with any river, canal, dock, harbour, lock, reservoir, or basin, so as to injuriously affect the navigation thereon ; or the use thereof, or to interfere with the towing path so as to interrupt the traffic thereof, in cases where any body of persons or person are or is by virtue of any Act of Parliament entitled to navigate on, or use such river, canal, dock, harbour, lock, reservoir, or basin, or to receive any tolls or dues in respect of the navigation thereon or use thereof ; or,

4. To interfere with any watercourse in such a manner as to injuriously affect the supply of water to any river, canal, dock, harbour, reservoir, or basin, in cases where any such body of persons or person as last aforesaid would, if this Act had not been passed, have been entitled, by law, to prevent, or be relieved against such interference ; or,

5. To interfere with any bridges crossing any river, canal, dock, harbour, or basin, in cases where any body of persons or person are, or is, authorised by virtue of any such Act of Parliament to navigate or use any such river, canal, dock, harbour, or basin, or to demand any tolls or dues in respect of the navigation thereon or use thereof ; or,

6. To execute any works in, through, or under any wharves, quays, docks, harbours, or basins, to the exclusive use of which any body of persons or person are, or is, entitled, by virtue of any Act of Parliament, or for use of which any body of persons or person are, or is, entitled by virtue of any Act of Parliament to demand any tolls or dues, without the consent in every case of such Lord High Admiral or Commissioners for executing the office of Lord High Admiral, Secretary of State, Commissioners, body of persons or person as are herein-

Sec. before in that behalf respectively mentioned, such consent to be expressed in writing, in the case of a corporation, under their common seal; and in the case of any body of persons not being a corporation, under the hand of their clerk or other duly authorised officer or agent; and nothing in this Act shall prejudice or affect the rights, privileges, powers, or authorities given or reserved to any person under such local or private Acts for draining, preserving, or improving land as are in this section mentioned.

328 Where any acts proposed to be done by a L.A., and not prohibited by any former section, interfere with the improvement of any river, dock, harbour, reservoir, etc., which anyone by any Act of Parliament is entitled to navigate or use, the L.A. shall give notice to such person or persons affected, specifying the particulars of the matters and things intended to be done. If the parties notified do not consent, the matter shall be referred to arbitration, and the following questions shall be decided by arbitration :—

1. Whether the matters or things proposed to be done by the L.A. will cause injury to such river, canal, dock, etc.

2. Whether any injury that may be caused by such matters or things, or any of them, is or is not of a nature to admit of being fully compensated by money.

329 The result of such arbitration shall be final, and the L.A. shall do as follows :—

1. If the arbitrators are of opinion that no injury will be caused, the L.A. may forthwith proceed to do the proposed matters and things.

2. If the arbitrators are of opinion that injury will be done, but that such injury is of a nature to admit of being fully compensated by money, they shall proceed to assess such compensation; and, on payment of the amount assessed, but not before, the L.A. may proceed to do the proposed matters and things.

3. If the arbitrators are of opinion that injury will be caused, and that it is not of a nature to admit of being fully compensated by money, the L.A. shall not proceed to do any matter or thing in respect of which such opinion may be given. Sec.

No transfer of powers under this Act shall affect any person or persons authorised by any Act of Parliament to navigate on any river or canal, or demand tolls, etc. Any body of persons or person authorised to navigate or use any river, canal, etc., may, at their own expense, change, or substitute new sewers for old ones, if done to the satisfaction of the L.A. The L.A. are not entitled to injuriously affect any reservoir, canal, river, etc., belonging to any body of persons or person, unless the L.A. have the permission, in writing, of such body of persons or person. 330 331 332

Any dispute arising between such body of persons or person under the provisions of the two preceding sections, to be settled by arbitration. 333

Nothing in this Act shall extend to mines so as to affect the efficient working of the same, nor to the smelting of ores and minerals, nor to the calcining, puddling, and rolling of iron and other metals, etc. 334

This section provides that collegiate or other corporate bodies, or any public department of the Government, shall have powers to divert its sewers or drains from any river, or to construct new ones, as they had under the Sewage Utilization Act, 1867, and for that purpose the provisions of this Act, applicable to purposes the same or similar to those of the Sewage Utilization Act, 1867, shall apply in substitution for the last-mentioned provisions. 335

Nothing in or done under this Act shall affect any 336

Sec. outfall or other works of the M.B.W. (although beyond the metropolis) executed under the M.M.A. 1855, and the Acts amending the same, or take away, abridge, or prejudicially affect any right, power, authority, jurisdiction, or privilege of the M.B.W. The Board is also exempted from the operation of the Rivers Pollution Prevention Act, 1876.

337 Nothing in this Act shall affect the payment or recovery of any yearly sum payable at the time of the passing of this Act in pursuance of the L.G.A. 1858, Amendment Act, 1861, to any L.A. in respect of any premises without their district which have a drain communicating with a sewer within their district: Provided that any such sum shall cease to be payable, if, and when the connection between the drain and the sewer is discontinued, from the time of such discontinuance; but if after the discontinuance, the connection is re-established, the yearly sum shall again become payable, and so from time to time.

338 Any rates assessed, or works done by L.A. under a local Act, shall be valid, notwithstanding the passing of the P.H.A. 1872, or this Act.

339 Nothing in this Act shall affect the composition of any L.B. constituted by any order in council, or any P.O. made under the P.H. 1848, and confirmed by Parliament, or the qualification or number of members of any such L.B.; but any such order in council, or order so confirmed, or the Act confirming any such last-mentioned order, may be repealed, altered, or amended in manner provided by this Act.

340 If in the district of an L.A. there is a local Act with similar provisions to this Act, proceedings may

be taken out, either under the local Act or the P.H.A. Sec. 1875, or under both, subject to these qualifications:—

1. That no person shall be punished for the same offence, both under a local Act and this Act.
2. That the L.A. shall not, by reason of any local Act in force within their district, be exempted from the performance of any duty or obligation to which they may be subject under this Act.

All powers given by this Act shall be deemed to be in addition to, and not in derogation of, any other powers conferred by Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not been passed; and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not been passed: Provided that no person who has been adjudged to pay every penalty under this Act shall for the same offence be liable under any other Act. 341

This section provides for the formation, constitution, etc., of the L.G.D. of Oxford. The L.B. to consist of the vice-chancellor of the university, the mayor of Oxford, and forty-five other members, fifteen to be elected by the university, sixteen by the town council, and fourteen by the ratepayers of the parishes in the included area. 342

The Acts specified in the first and second parts of Schedule V. to this Act are hereby repealed, to the extent in the third column in the said parts of the schedule mentioned, with the following qualification:— That so much of the said Acts as is set forth in the third part of that schedule shall be re-enacted in 343

manner therein appearing, and shall be in force as if enacted in the body of this Act. Provided also, that this repeal shall not affect—

(a) Any thing duly done or suffered under any enactment hereby repealed. (b) Any right or liability acquired, accrued, or incurred under any enactment hereby repealed. (c) Any security given under any enactment hereby repealed. (d) Any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment hereby repealed. (e) Any investigation, legal proceeding, or remedy in respect of any such right, liability, security, penalty, forfeiture, or punishment, as aforesaid, and any such investigation, legal proceeding and remedy may be carried on as if this Act had not been passed.

#### SCHEDULE V.—PART I.

Session and Chapter.	Title, or Short Title.	Extent of Repeal.
11 & 12 Vic. e. 63	The Public Health Act, 1848.	The whole Act, except part of sec. 83.
14 & 15 Vic. c. 28	The Common Lodging Houses Act, 1851.	The whole of the Act, except so far as relates to the Metropolitan Police District.
16 & 17 Vic. e. 41	The Common Lodging Houses Act, 1853.	The whole Act, except as in the last Act.
18 & 19 Vic. e. 116	The Diseases Prevention Act, 1855.	The whole Act, except as so far as relates to the Metropolis.
18 & 19 Vic. e. 121	The Nuisances Removal Act for England, 1855.	The whole Act, except as in the last Act.
21 & 22 Vic. c. 98	The Local Government Act, 1858.	The whole Act, except part of sec. 49.
23 & 24 Vic. c. 77	An Act to amend the Acts for the Removal of Nuisances and the Prevention of Diseases.	The whole Act, except so far as relates to the Metropolis.

Session and Chapter.	Title, or Short Title.	Extent of Repeal.
24 & 25 Vic. c. 61	The Local Government Act, 1858, Amendment Act, 1861.	The whole Act, except sec. 21.
26 & 27 Vic. c. 17	The Local Government Act, 1863, Amendment Act, 1863.	The whole Act, except sec. 6.
26 & 27 Vic. c. 117	The Nuisances Removal Act for England (Amendment) Act, 1863.	The whole Act, except so far as relates to the Metropolis.
28 & 28 Vic. c. 75	The Sewage Utilization Act, 1865.	The whole Act, except so far as relates to Scotland & Ireland.
29 & 30 Vic. c. 41	The Nuisance Removal (No. 1) Act, 1866.	The whole Act, except so far as relates to the Metropolis.
29 & 30 Vic. c. 90	The Sanitary Act, 1866	Parts I., II., III., except so far as relates to the Metropolis, Scotland or Ireland.
30 & 31 Vic. c. 113	The Sewage Utilization Act, 1867.	The whole Act, except so far as relates to Scotland & Ireland.
31 & 32 Vic. c. 115	The Sanitary Act, 1868	The whole Act, except so far as relates to the Metropolis.
32 & 33 Vic. c. 100	The Sanitary Loans Act, 1869.	The whole Act, except so far as relates to the Metropolis.
33 & 34 Vic. c. 53	The Sanitary Act, 1870	The whole Act, except so far as relates to the Metropolis.
35 & 36 Vic. c. 79	The Pub. Health Act, 1872.	The whole Act, except so far as relates to the Metropolis, and secs. 34, 38, and 48 partly re-enacted.
37 & 38 Vic. c. 89	The Sanitary Law Amendment Act, 1874.	The whole Act, except so far as relates to the Metropolis or the Metropolitan Police District.

Sec.

## PART II.

Session and Chapter.	Title, or Short Title.	Extent of Repeal.
12 & 13 Vic. c. 94	The Pub. Health Supplemental Act, 1849.	The whole Act, except sec. 1 (confirmation of certain provisional orders of the General Board of Health), and sec. 12 (short title of Act), and the schedule.
13 & 14 Vic. c. 90	The Pub. Health Supplemental Act, 1850 (No. 2).	The whole Act, except sec. 1 (certain provisional orders of General Board of Health confirmed), and sec. 7 (short title of Act), and Schedules.
15 & 16 Vic. c. 42	The First Pub. Health Supplemental Act, 1852.	Sections 6 and 12 both inclusive.

## THE RIVERS POLLUTION PREVENTION ACT, 1876.

39 and 40 Vic. c. 75.

THE object of this Act is to make further provision for the prevention of the pollution of rivers and streams of Great Britain, and, in particular, to prevent the  
 20 establishment of new sources of pollution. The word

“Stream” includes the sea to such an extent, and tidal waters to such a point, as may, after local inquiry, and on sanitary grounds, be determined by the L.G.B. It also includes rivers, streams, canals, lakes, and watercourses, other than watercourses at the passing of the Act mainly used as sewers, and emptying directly into the sea, or tidal waters which have not been determined to be streams within the meaning of this Act.

“Solid matter” shall not include particles of matter in suspension in water. Sec.

“Polluting” shall not include innocuous discoloration.

“Sanitary Authority”—In the metropolis as defined by the M.M.A. 1855, any L.A. acting under the U.R.A. 1855, and amending Acts. Elsewhere in England any U.A. or R.A. under the P.H.A. 1875.

The sources of pollution are—

(a) The solid refuse of any manufactory, manufacturing 2  
process, or quarry, or any rubbish or cinders or any other  
waste or any putrid solid matter. (b) Solid or liquid sewage 3  
matter. (c) Any poisonous, noxious, or polluting liquid pro- 4  
ceeding from any factory or manufacturing process. (d) Any 5  
solid matter from any mine likely to interfere with the flow  
of the stream, or any solid or liquid poisonous, noxious, or  
polluting matter from such mine.

In proving interference with the due flow or pollu- 2  
tion of any stream, evidence may be given of repeated  
acts which together cause such interference or pollution,  
although each act taken by itself may not be sufficient  
for that purpose. The defender may plead that the 3  
sewage is carried into the stream along a channel used,  
constructed, or in process of construction at the date  
of the passing of the Act, but he must also show to the  
court that he is using the best practicable and available  
means to render harmless the sewage matter so falling  
or flowing or carried into the stream. The L.G.B., if  
satisfied, after local enquiry, that further time ought  
to be granted to L.A. so as to enable them to adopt 2  
the best practicable means for rendering such sewage  
matter harmless, may, by order, appoint a limited  
period, and this order may be renewed conditionally  
from time to time by the L.G.B. Any person, with

Sec. the consent of L.A., using their sewers shall be exempt  
4 from the action of this section. The same exemption may be pleaded in the case of liquids from manufacturing processes, but in this case, *outlet* need only have been used, constructed, or in process of construction.

5 In the case of any matters flowing from mines, all that is necessary to show is that the person offending is using the best means to render harmless the polluting matter, and there is no reference to outlets either old  
6 or new. Private persons are only authorised to take proceedings against persons offending under *a* and *b*, under *c* and *d* they are merely allowed to request the L.A. to act, and no proceedings shall be taken by a L.A. unless with the consent of the L.G.B. But, should the L.A. refuse to take proceedings or apply for consent, the aggrieved party may apply to the L.G.B., who, after enquiry, may request the L.A. to act. In giving their consent, the L.G.B. must have regard to the industrial interests involved, and the circumstances and requirements of the locality, and they shall not give their consent where the district is the seat of any manufacturing industry unless they are convinced that no material injury will be inflicted by such proceedings on the interests of such industry. The person proceeded against may demand, in writing, to be heard before the L.A., who must consent before further proceedings are begun.

7 Every L.A. shall give facilities to manufacturers in their district to drain into their sewers, provided that nothing injurious is discharged into them, but L.A. shall not be compelled to give such facilities where their sewers are only sufficient for the requirements

of their district, or where such facilities would interfere with any order of any court of competent jurisdiction. Any R.A. or U.A., or in the metropolis the District Board or Vestry, subject to the restrictions of this Act, may institute proceedings in cases where the flow of any stream in their district is obstructed or polluted, whether such offence is committed within or without their district, and any expenses incurred shall be deemed to be proper expenses under the P.H.A. 1875. Any private person, if aggrieved, may also institute proceedings. Sec. 8

The Lee Conservancy Board have, within the area of their jurisdiction, exclusive power for enforcing the provisions of the Act. 9

Whatever may be the nature of the pollution, proceedings may be taken in the county court of the district in which the pollution is originally caused, and such court may, by summary order, simply require any person to abstain from the commission of the offence, or may require him to perform certain duties stating the conditions for their performance. Previous to the granting of such order, the court may remit to skilled parties to report on the "best practicable and available means," and the cost of the works, etc. If the order is not complied with, a penalty of £50 for each day in default may be imposed, and applied as the court directs. Appeal may be made from the decision of the court to the High Court of Justice in point of law, or on the merits, or in respect of the admission or rejection of evidence, and, as a rule, the ordinary procedure of the county court shall apply to cases under the Act. Any plaint in a county court may, 10 11

Sec. by leave of any judge of the High Court, be removed into such court.

- 12 The L.G.B. may appoint an inspector with proper qualifications (those of a poor law inspector) for the purposes of this Act, whose certificate, for a period of not more than two years, shall be conclusive evidence that the best practicable and available means are being taken, and any person aggrieved by such certificate, or by its being withheld, may appeal to the L.G.B., who
- 13 may act as they think fit in the matter. Proceedings may be taken at any time for offencees under *a*, but under *b c d* only after the expiration of twelve months from the passing of the Act, but in no case shall proceedings be taken unless two months' written notice
- 14 of intention to proceed be given to the offender. The L.G.B. may make orders as to the cost of enquiries,
- 15 and by whom such costs shall be borne. Inspectors under this Act have the same powers as those under
- 16 the P.H.A. 1875. The Act is not to prejudice or
- 17 affect any other rights or powers existing by Act of Parliament, law, or custom, nor shall it apply to or affect the lawful exercise of any rights of impounding
- 18 or diverting water. The rights of the Lee Conservancy Board are preserved, and also those of the Metropolitan
- 19 Board of Works, and of sanitary or other local authorities empowered by statute to drain into the sea or tidal waters.

*Application to Scotland.*

- 21 "Sanitary Authority" means the authorities under the P.H.S.A. 1867. *London Gazette*, read *Edinburgh Gazette*. For P.H.A. 1875, read P.H.S.A. 1867, and

amending Acts. For L.G.B., read Secretary of State. Sec.  
 For County Court, read sheriff of the county and  
 sheriff-substitute, and for "plaint entered in a county  
 court," read "plaint in sheriff court." For "High  
 Court of Justice," the Court of Session in either division  
 of the Inner House is meant. All jurisdiction and  
 powers are conferred on sheriffs and their substitutes.

*Application to Ireland.*

"Sanitary Authority" shall mean any U.A. or R.A. 22  
 under P.H.I. 1874. For P.H.A. 1875, read P.H.I.  
 1874. For L.G.B., read L.G.B.I. For "County  
 Court," read "Civil Bill Court." "High Court of  
 Justice" shall mean any of the "Superior Courts of  
 Common Law in Dublin." For "Judge of the County  
 Court," read "Chairman of Quarter Sessions" and  
 "Judge of Civil Bill Court." For *London Gazette*,  
 read *Dublin Gazette*. All jurisdiction and powers are  
 conferred on the courts and judges above mentioned.

SALE OF FOOD AND DRUGS ACT, 1875—1879.

38 and 39 Vic. c. 63 ; 42 and 43 Vict. c. 30.

THE Sale of Food and Drugs Act has taken the place  
 of several Acts passed during the present century to  
 prevent adulteration. There yet remains an Act pro-  
 hibiting the mixture of injurious ingredients with  
 intoxicating liquors, and one or two statutes regulating  
 trade frauds, as, for example, the Adulteration of Seeds  
 Act, 1809. With these few exceptions the present

Sec. Act, and a short one passed in 1879, amending the principal Act, are the only Acts in force. The intention of the Act is stated to be the repeal of the Adulteration of Food Acts, and to make better provision for the sale of food and drugs in a pure state. Some of the provisions of the Act gave rise to considerable difference of opinion among our legal authorities, and the existence of the amending Act is largely due to the view taken by the Scotch judges, that no action could be taken unless prejudice to the purchaser could be shown, and that the buying of a sample of any food or drug for analysis could not be shown to be to the prejudice of the purchaser.

- 1 This section merely repeals the 23 and 24 Vic. c. 84, 31 and 32 Vic. c. 121, sec 24 of the 33 and 34 Vic. c. 26, sec. 3 of the 35 and 36 Vic. 74, except that no
- 2 appointment or offence under them is affected. The following terms are used:—

(a) "Food" shall include every article used for food or drink by man, other than drugs or water. (b) "Drug" shall include medicine for internal or external use. (c) "County" shall include every county, riding, and division, as well as any county of a city or town not being a borough. The amending Act has, further, the county to every liberty having a separate court of quarter sessions, except a liberty of a cinque port. (d) "Justices" shall include any police and stipendiary magistrate invested with powers of a J.P. in England, and any divisional justices in Ireland.

- 3 No person shall himself, or allow another to mix, colour, stain, etc., any article of food with any ingredient so as to render the article injurious to health, and any person who shall sell any such article so mixed shall be liable to a penalty in each case not

exceeding £50 for the first offence, and after a first conviction, to imprisonment for a period not exceeding six months, with hard labour. Sec.

No person, except for the purpose of compounding, shall mix, stain, etc., any drug with any ingredient so as to injuriously affect the quality or potency of such drug, under penalties as in a former section. But no one shall be punished for selling such adulterated article of food or drug if he shows, to the satisfaction of the justices or court, that he could not, by reasonable diligence, have obtained the knowledge of the adulteration. No person shall sell, to the prejudice of the purchaser, any article of food or any drug which is not of the nature, substance, or quality of the article demanded, under a penalty not exceeding £20, provided that an offence shall not be committed in the following cases :—

1. Where any matter or ingredient, not injurious to health, has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or drug, or conceal the inferior quality thereof.

2. Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent.

3. Where the food or drug is compounded as in the Act mentioned.

4. Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

The amending Act, sec. 2, states it shall be no defence to any such prosecution to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale. Neither shall it be a good

Sec. defence to prove that the article of food or drug in question, though defective in nature, or in substance, or in quality, was not defective in all three respects. Under the amending Act it is held that in determining whether an offence has been committed under section 6, by selling to the prejudice of the purchaser, spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than 25 degrees under proof for brandy, whisky, or rum, or 35 degrees under proof for gin.

- 7 No person shall sell any compound article of food or compounded drug not composed of ingredients as demanded by the purchaser, under a penalty not exceeding £20. But no person shall be guilty of any offence by selling any article of food or drug mixed with any substance not injurious to health, and not intended to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of sale he furnishes the purchaser with a label stating that the
- 9 same is a mixture. And no article of food or drug shall be sold, under a penalty not exceeding £20, if any constituent of such article has been abstracted.

*Appointment and Duties of Analysts and Proceedings to obtain Analysis.*

- 10 The appointing authorities in England are—

1. The Commissioners of Sewers of the City of London and liberties thereof.
2. Vestries and District Boards for other parts of the Metropolis.
3. The Court of Quarter Sessions of every county.

4. The Town Council of every Borough having a separate Court of Quarter Sessions, or having under any general or local Act, or otherwise, a separate police establishment.

*Appointments.*—These are to be made as soon after the passing of the Act as is convenient; vacancies to be filled up as they occur, or when ordered by the L.G.B.

*Qualification.*—Any person possessing competent knowledge, skill, and experience, as analysts of all articles of food and drugs sold within the respective districts. Satisfactory proof of competency may be required by the L.G.B.

*Remuneration.*—Such as may be agreed upon between the authorities and analysts.

*Appointment and Removal.*—All appointments and removal of officers must be subject to the approval of the L.G.B.

*Disqualification of Applicants.*—No person shall be an analyst who is connected directly or indirectly in any trade or business for the sale of food or drugs in the district.

The appointing authorities in Scotland—

1. The Commissioners of Supply.
2. The Commissioners or Boards of Police.
3. The Town Councils for Boroughs.

The approving authority, instead of the L.G.B., shall be one of Her Majesty's Principal Secretaries of State.

The appointing authorities in Ireland—

1. The Grand Jury of every county.
2. The Town Council of every borough.

The L.G.B.I. taking the place of the L.G.B. as the approving authority.

Sec. 11 The Town Council of a borough may engage the  
12 analyst of another borough or of the county. The purchaser of any article of food may have it analysed by the appointed analyst by paying not more than ten shillings and sixpence, or if there be no analyst, then by an analyst of another place, on paying a fee agreed between them, for which analysis a certificate is to be given by the analyst.

13 The persons empowered to obtain samples for analysis are—

(a) The Medical Officer of Health. (b) Inspector of Nuisances. (c) Inspector of Weights and Measures. (d) Any Inspector of markets or Police Constable employed by the L.A. for the purpose.

The amending Act also authorises any of the above-mentioned officers to obtain a sample of milk at the place of delivery and submit it to analysis, and the seller is liable to a penalty of not more than £10 if he refuses to sell the milk. The courts have held that when an article has been purchased for analysis by the assistant of an inspector, the inspector is to be regarded as the actual purchaser, and is entitled to institute proceedings.

14 When the article has been bought, the purchaser shall inform the seller of his intention to have it analysed, and offer to divide the article into three parts, each portion to be marked and sealed. One of the packets so sealed up shall be given to the seller or his agent, one of the other packets to the analyst, and  
15 the other retained by the purchaser. If the seller refuses the offer of the purchaser to divide the article purchased in his presence, the analyst shall divide the

sample into two parts, and give one part, sealed and marked, to the purchaser for future reference at the time he supplies his certificate of the result of the analysis. If the analyst resides at a greater distance than two miles, the articles may be sent through the post as a registered letter, subject to any regulations made by the Postmaster-General. Sec. 16

The following are the present postal arrangements as to forwarding samples :—

1. Each packet must be addressed according to the official designation of the analyst, as “public analyst,” or otherwise, and the nature of its contents must be stated on the front of the packet.

2. Any Postmaster, at whose office a packet for a public analyst shall be tendered for registration, may refuse to accept it for this purpose, unless it be packed in so secure a manner as to render it least likely that its contents will escape and injure the correspondence.

3. Liquids for analysis shall be contained in stout bottles or bladders, which shall be enclosed in strong wooden boxes with rounded edges, the boxes being covered by stout wrappers of paper or cloth, and no such packet shall exceed eight inches in length, four inches in width, or three inches in depth.

4. No packet, whatever, addressed to a public analyst shall exceed the dimensions of eighteen inches in length, nine inches in width, or six inches in depth. The postage and registration fee on such packet must be prepaid.

Any person refusing to sell an article exposed for sale to any officer of the L.A. shall be liable to a penalty not exceeding £10. The certificate of the analyst shall be made out in the following form :— 17 18

To, (*insert name of person sending samples for analysis.*)

I, the undersigned, public analyst for the *Town of Flint*, do hereby certify that I received on the *tenth* day of *May* 1883,

Sec. from *William Smith*, a sample of *Butter* for analysis (which then weighed *five ounces*—the weight may be omitted), and have analysed the same, and declare the result of my analysis to be as follows :—I am of opinion that same is a sample of genuine ; or, I am of opinion that the said sample contained the parts as under, or percentages of foreign ingredients as under—

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### Observations

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As witness my hand this.....day of

A. B.

at

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In the case of milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

19 Every analyst shall send a quarterly report to his L.A. stating the number of articles analysed by him during the quarter, and giving the result of each analyses, and the fees paid to him. And every L.A. shall annually send to the L.G.B. a certified copy of each quarterly report.

20 If the report of the analyst is unfavourable, the person causing the analysis to be made may take proceedings for the recovery of the penalty imposed before any justices having jurisdiction, and such penalty shall be recovered under the "Summary Jurisdiction Acts."

In Ireland such proceedings may be taken with respect to the police district of Dublin metropolis, in other parts of Ireland before justices sitting in petty sessions under "The Petty Sessions (Ireland) Act,

1851." Any penalty imposed may be reduced or mitigated by the justices. By the amending Act, the person charged with violating the provisions of the Act must be summoned within a reasonable time, and in the case of a perishable article, within twenty-eight days from the date of purchase, the summons to contain particulars of the offence, the name of the prosecutor; and it shall also be returnable in a less time than seven days from the date of service. Sec.

The certificate of the analyst shall be *prima facie* evidence for the prosecution, but the analyst may be called if required. In a recent case where a sample of milk was certified as adulterated, but neither the analyst nor the dairyman appeared, the justice dismissed the case, but the High Court held that his decision was wrong, as he could not go behind the certificate. The defender and his wife may be examined in defence. The justices, or any court of appeal, on the request of either party may order any article of food or drug to be sent to the Commissioners of Inland Revenue, who shall direct the chemical officers of their department at Somerset House to make the analysis, and to forward a certificate of the result to the justices, who may also direct the complainant or defendant to pay the costs of such analysis. 21 22

The following are the regulations of the Commissioners of Inland Revenue as to articles sent for analysis :—

1. The sample retained by the purchaser, as stated in secs. 14 and 15 of the Act, should be carefully sealed up and secured either in paper or in a box, as the case may be.

2. The seal used should bear a motto or device not in common use, to enable its identity to be sworn to.

Sec. 3. If sent through the post, the instructions issued by the Postmaster-General, before given, for the transmission of such samples, should be carefully carried out, and the parcel should be addressed to "The Commissioners of Inland Revenue, Inland Revenue Office, Somerset House, London, W.C., the Principal of the Laboratory," and in addition to the nature of the contents being stated on the front of the packet, as enjoined by the Postmaster-General, the name of the place whence sent should be stated. If despatched by railway or other conveyance, the address above given, with the name of the place from which forwarded, will be sufficient.

4. At the time the parcel is despatched by post or otherwise, a letter should be sent by post to the Principal of the Laboratory apprising him of the transmission of the sample for analysis, and stating the nature of the alleged adulteration, and such other particulars as may be considered necessary to facilitate the examination of the sample.

- 23 Any person convicted may appeal to Quarter Sessions.
- 24 In any prosecution where the article sold in a mixed state has been proved, defendant must prove that he is protected by exception or provision contained in the
- 25 Act. The defendant is to be discharged if he prove that he bought the article in the same state as sold, and with a warranty, but to save his paying the costs of the action he must give the prosecutor notice that
- 26 he intends to rely on the above plea. All penalties received by any officer shall be paid to the L.A., to be
- 27 applied for the purposes of the Act. Any person who shall forge or utter any forged warranty, shall, on conviction, be imprisoned for not more than two years with hard labour. Any person who shall use a warranty given for one article for another, shall be liable to a like penalty. A label giving a false description of an article renders the person using it liable to the

above penalty. Proceedings may be by indictment, *Sec. 23* but no contract shall be interfered with.

Any person selling an article may recover any expenses or penalties inflicted on him if he prove that the article sold was of the same nature, substance, or quality as that demanded of him, and that he had bought it not knowing it to be otherwise.

The expenses for executing the Act shall be borne— *29*

(a) In London, by the consolidated rates raised by the Commissioners of Sewers. (b) Metropolis, by rates or funds applicable to the purposes of the Act. (c) In counties by the county rate; in boroughs by the borough rate or fund.

In Ireland, in counties by the grand jury cess, in boroughs, by the borough fund or rate. In Scotland, in counties by the county general assessment; in burghs, by the police assessment.

### *Special Provision as to Tea.*

All tea imported into Great Britain or Ireland may, *30*  
at the option of the Commissioners of Customs, and  
subject to the approval of the Treasury, be analysed,  
and condemned if adulterated or “exhausted;” that *31*  
is, deprived “of its proper quality, strength, or virtue,  
by steeping, infusion, decoction, or other means.”

The rest of the Act gives the legal terms, and the name and powers of the several authorities and courts in Scotland and in Ireland.

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### VACCINATION ACTS—1867–1871.

*30 and 31 Vict. c. 84; 34 and 35 Vict. c. 98.*

THE first Vaccination Act in England was passed in 1840, and amended in the following year. The Acts

provided for the voluntary vaccination of every person in England and Wales at the public cost, but it was not till the year 1853 that the 16 and 17 Vic. c. 100, made vaccination compulsory. In 1863 compulsory vaccination was extended to Scotland. By the English Acts the Guardians were required to divide their unions and parishes into districts for the purpose of affording every facility for the vaccination of the poor, and stations were to be provided in each district, at which the Medical Officers were to attend and perform the operation, to inspect the result, and grant certificates. Penalties were also inflicted on parents and others having the care of children, who, after due notice, failed to have such child or children vaccinated, or when vaccinated, omitted to take them to the vaccinator for inspection.

In 1858 an Act was passed (21 and 22 Vic. c. 97) for one year only, but made perpetual by 22 and 23 Vic. c. 3. By this Act the Privy Council were empowered to promote and superintend the execution of the Acts.

In 1861 another Act (24 and 25 Vic. c. 59) was passed authorising the Guardians to appoint some person to institute and conduct proceedings for enforcing the Act, and also allowed justices to certify for expenses incurred by any person so appointed, or by any registrar of births and deaths, or any Medical Officer of Health. It was also enacted that proceedings could be taken out at any time during which the parent or guardian of the child was in default. A difficulty arose in enforcing penalties against a person who had been fined and yet refused to have the child

vaccinated—*Pilcher v. Stafford*, (33 *L.J.*, *M.C.* 113). The Court of Queen's Bench decided in favour of the defendant on a point of law, and held that when once the offence was complete and had been dealt with, and the person offending punished, no further offence could be committed.

The Act of 1867 has removed that difficulty, and defaulters can now be fined as long as they refuse to comply with the provisions of the Act. In the case of *Allen v. Worthy*, Cockburn, J.C., said,—“It is clear that if the 31st section had not been introduced the decision in *Pilcher v. Stafford* would have applied, but I think that that section makes all the difference as regards what may now be done with respect to the second offence, and a second penalty ; I think, therefore, that the power given by section 31 is not confined to one notice, or order, and one conviction, but that the whole proceedings may be instituted *toties quoties* so long as disobedience continues.”

In the same case a certificate in form B of the child's unfitness for vaccination was over-ruled, and it was held that magistrates could still convict, if they were satisfied that the certificate was not *bona fide* made. “The certificate ought to be taken into consideration with the other circumstances of the case, but it is not enough for us to say that it is not an answer to the charge against the appellant so as to deprive the justices of the power to convict him.” The Act of 1867 (30 and 31 Vic. c. 84) repeals all former Acts, except as to the division of unions and parishes previously made, this enactment being re-enacted in the repealing Act. The L.G.B. may, however, not

approve of the proposed divisions, when the guardians must substitute another scheme. When approved of, the guardians shall contract with some duly registered medical practitioner resident in the district, and called the public vaccinator, for the performance of vaccinations.

Every public vaccinator or his deputy must also hold the certificate of proficiency in vaccination given by such persons as are authorised to do so by law. Allowance may be made to the public vaccinator for successful vaccination at the rate of one shilling per case above the sums paid by the Guardians on the report of the Inspectors of vaccination of the L.G.B. The public vaccinator is to be paid only for vaccinating persons in his district, except in case of a vacancy in the office of vaccinator in an adjoining district, or in default of the vaccinator therein, of which default notice shall have been given him in writing by the Guardians, or when a relieving officer of his union or parish shall, in writing, refer any child to him for vaccination. There must be a contract between the medical man and the guardians, and all fees must be paid to him within one month of the four quarter days, to avoid difficulty in recovering them. The *minimum* fees are :—Within one mile of his residence or in the workhouse, 1s. 6d.; over one mile, 2s. 6d.; over two miles, 3s.; two-thirds of the above fees for re-vaccination. Unless agreed upon with the guardians, the medical officer of the workhouse is not entitled to fees for vaccinating persons in it. The public vaccinator must send all certificates of vaccination to the vaccination officer of his district. If the

vaccinator is not a public vaccinator, he must give the certificate of "unfitness," "unsusceptibility," or "successful vaccination" to the parent or the guardian of the child for transmission to the proper officer, within seven days of the date of signature. The public vaccinator on the same day of the week following, must inspect all vaccinations and grant certificates, or re-vaccinate in case of failure. He has also to keep a book supplied by the L.G.B. in which he enters the date when the operation was performed, the name and age of the child, the source whence the lymph was obtained, N.V.E., (National Vaccine Establishment) or the number in his book of the child whence he took the lymph, and the result of the vaccination. The Act of 1871 created the office of "vaccination officer," who performs all the duties imposed by the Act of 1867 on the Registrar of Births and Deaths. It is his duty to see that every child is vaccinated, and the law enforced against defaulters. If not the Registrar of Births and Deaths, he must procure from that functionary a list of all births taking place in his district. For supplying this list the registrar is paid. In all prosecutions he must give proof of his appointment to the justices. In case of possible infection, it is the opinion of the L.G.B. that the guardians may order any child in their work-house to be vaccinated without the consent of the parents.

The word "parent" includes every one having the care or custody of a child. It is the duty of the parent to see that the child is vaccinated within three months of the date of its birth. Failing to do so, the vaccination officer gives notice to the parent requiring the

Sec. child to be vaccinated usually within fourteen days, and if the demands of the notice is not complied with proceedings may be commenced before a magistrate to enforce compliance. The magistrate may order the child to be vaccinated within a certain period, and then if the order is not complied with, a penalty of 20s. may be imposed. In proceedings against parents it is not necessary that the child be born in the district where the case is tried. This provision was inserted to stop the practice of moving a child from the district in which it was born to avoid the penalty. A penalty may be imposed on a parent for the following offences besides the above :—

(a) Refusing to take vaccinated child to be examined. (b) Refusing to allow the removal of lymph.

Re-vaccinated persons must present themselves for examination, or pay 2s. 6d. to the guardians, of which they can compel payment in a summary manner.

Inoculation is now illegal.

## THE BAKEHOUSE REGULATION ACT, 1863.

*26 and 27 Vict. c. 40.*

BOTH U.A. and R.A. have powers and duties under this Act. By the Factory Acts Extension Act, 1867, and the Workshop Regulation Act, bakehouses are excluded from the provisions thereof.

- 2 The word "bakehouse" shall mean any place in which are baked bread, biscuits, or confectionery, from the baking or selling of which a profit is derived. "Employed," means any person working in a bakehouse, whether for wages or not. "Occupier," any

person in possession. "The Court" shall include any justice or justices, sheriff or sheriff-substitute, magistrate or magistrates, to whom jurisdiction is given by the Act. Sec.

The following are the provisions of the Act:—

(a) No person under the age of eighteen shall be employed in any bakehouse between the hours of nine of the clock at night, and five of the clock in the morning. The time to be reckoned according to the meridian of the place, and not according to railway or Greenwich time. The penalties for keeping a person so employed are, for the first offence not more than £2; for a second, not exceeding £5; for a third and every subsequent offence, not more than £1 for every day of such employment, so that no greater penalty than £10 be imposed. 3

(b) The inside walls and ceiling of every bakehouse in any place containing a population of more than 5000 persons, and the passages, etc., leading to it, must be either painted with three coats of paint, and be re-painted every seven years, and washed with hot water and soap at least once in every six months, or limewashed, the limewashing being renewed at least every six months. 4

(c) Every bakehouse shall be kept in a cleanly state, and provided with proper means for effectual ventilation, and be free from any effluvia arising from any drain, privy, or other nuisance. If the occupier fails therein, a penalty not exceeding £5 may be imposed. Instead of imposing a penalty, the "court" may order the occupier to take measures, within a given time, to bring his bakehouse in conformity with the provisions of the Act. If he fail to comply, a penalty not exceeding £1 a day for every day he is in default may be imposed. 5

(d) No place on the same level with a bakehouse situate in any place with a population over 5000 persons shall be used as a sleeping place unless constructed as follows:—1. To be effectually separated from the bakehouse by a partition extending from floor to ceiling; (2) To have an external glazed window of at least nine superficial feet in area, of which at least four and a-half superficial feet are made to open for ventilation. A penalty not exceeding 20s. for the

Sec. first offence, and not more than £5 for any subsequent offence may be imposed.

- 6 It is the duty of the L.A. to enforce the provisions of the Act in their district, and for this purpose the M.O.H., S.I., or any other authorised person, may enter into any bakehouse during the time of baking and inspect the same. A penalty of not more than £20 is incurred by any person refusing admission to any officer appointed by the L.A.; and, on refusal, application may be made to a justice for an order authorising such officer, accompanied by a police constable, to enter the bakehouse for the purpose of
- 7 inspection. All expenses incurred by any L. A. are to be paid out of a rate levied under the P.H.A. 1875.
- 8 Penalties may be recovered summarily before two or
- 9 more justices, or before any metropolitan police magistrate, stipendary magistrate, the Lord Mayor of London, or any alderman sitting alone, or with others, at the Mansion House or Guildhall.

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#### THE ALKALI ACTS, 1863-1874.

26 and 27 *Vict. c. 124*, 1863; 37 and 38 *Vict. c. 43*.

THE first Alkali Act was passed in 1863, and was to continue in force only five years. It was, however, made perpetual by the 31 and 32 *Vict. c. 36*, and amended by the Act passed in 1874. By the first Act the term "alkali work" was held to mean every work for the manufacture of alkali, sulphate of soda, or sulphate of potash, in which muriatic gas is evolved. The amending Act adds to the former definition the

following:—"The formation of any sulphate in the treatment of copper ores by common salt or other chlorides shall be deemed to be a manufacture of sulphate of soda within the said section." The main objects of these Acts is to prevent the escape into the air of muriatic acid gas and other noxious gases. The following are directed to this object:—Section 4 enacts that every alkali work shall be carried on in such a manner as to secure the condensation, to the satisfaction of the inspector, derived from his own examination, or from that of a sub-inspector, of not less than 95 per centum of the muriatic gas evolved therein; provided always, that nothing herein contained shall entitle the inspector to direct any alteration to be made in the process of manufacture or the apparatus used therein. The second Act provides, that "in addition to the condensation of such percentage of muriatic acid gas, as aforesaid, every alkali work shall be carried on in such a manner as to secure the condensation to the satisfaction of the inspector, derived from his own examination, or from that of a sub-inspector, of the muriatic acid gas evolved in such work to such an extent that in each cubic foot of air, smoke, or chimney gases escaping from the works into the atmosphere, there is not contained more than one-fifth part of a grain of muriatic acid. If an alkali work be carried on in contravention of these regulations, on conviction a penalty of £50 may be imposed; provided always, that no such owner shall be convicted of more than one such offence in respect of any one day; provided also, that no such penalty shall be inflicted unless the inspector shall produce before the court having cog-

nizancee of the matter, a statement in writing of the facts on which he founds his opinion, that 95 per centum of the muriatic acid gas evolved in the alkali work is not condensed therein, and serve a copy thereof with the process commencing the proceedings. The Act of 1874 enacts that, "in addition to the condensation of muriatic acid gas as aforesaid, the owners of every alkali work shall use the best practicable means of preventing the discharge into the atmosphere of all other 'noxious gases' arising from such works, or of rendering such gases harmless when discharged." If they fail to use such means they are liable to a penalty of £20 for the first, £50 for the second, and £2 for every day the offence continues, and £20 a day in case of a third conviction. Before these penalties can be inflicted, the inspector shall, ten days previously, deliver to such owners a statement in writing, specifying in what respect such owners have failed to comply with the requirements of this section, and also specifying means which, in his opinion, would suffice to comply therewith; and a copy of such statement shall, on the institution of any proceedings under this section, be laid by the inspector before the court, having cognizance of the matter. The owners are liable for offences in the first instance, unless they prove that they have used every care, and that the offence was committed by some agent, servant, or workman, without their knowledge, in which case such agent, servant, or workman shall be liable.

All alkali works must be registered, and to carry out the provisions of the Act, the L.G.B. are empowered from time to time to appoint any fit and proper person

to be inspector of alkali works under the Act, and to remove him and appoint some one else. The notice of the appointment must be published in the *London Gazette*. The inspector must not be a land agent, or directly, or indirectly engaged in any manufacture, or interested in any patent in or according to which the decomposition of salt, or the condensation of muriatic acid gas may be affected ; and as a further disqualification required by the latter Act, no person, either directly or indirectly engaged, or interested in any alkali works, or in any patent for any process or apparatus carried on, or used in any alkali works, shall act as inspector or sub-inspector under the Acts.

The duties of the inspector are to see that the provisions of the Act are observed, and to enforce them when disregarded ; for these purposes he may inspect the works by day and by night without giving previous notice, but so that he does not interrupt the process of manufacture, and he may examine into the efficiency of the condensing apparatus, etc. He may also demand a plan of the apparatus, which, however, he must keep secret. He, or his sub-inspector, may apply any tests, or make any experiments he may deem necessary, so long as he does not interfere with the process of the manufacture. The inspector shall also, on or before the first of March in every year, make a report, in writing, to the L.G.B. of his proceedings during the preceding year, and a copy of such report shall be laid before both Houses of Parliament.

The term "noxious gas" shall, for the purposes of this Act, mean any of the gases following ; that is to say, sulphuric acid ; sulphurous acid, except that arising

Sec. from the combustion of coals; nitric acid, or other noxious oxides of nitrogen, sulphuretted hydrogen, and chlorine.

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THE ARTIZANS AND LABOURERS DWELLINGS  
ACT, 1868.

(31 and 32 Vict. c. 130.)

THE object of the Act is to provide better dwellings for artizans and labourers, and applies to the whole kingdom. Any place where the population amounts to 10,000 may take advantage of its provisions, the U.A. of the place being the L.A. under the Act. The term "Officer of Health" shall mean and include the M.O.H., S.I., or any statutory officer acting in the

5 place of these. In any place to which the Act applies it is the duty of the officer of health to report, in writing, to the L.A. if he finds any premises in a condition or state dangerous to health, or unfit for

6 human habitation. On receiving the report, the L.A. are to place it before a surveyor or engineer, who, after considering it, is to report to the L.A. the cause of the evil, and whether it can be remedied by structural alterations, or whether the premises ought to be

12 demolished. On the representation, in writing, of four or more householders, to the officer, that any premises are dangerous to health, he shall at once inspect the premises and report thereon, but the absence of any such representation shall not excuse him from inspect-

13 ing any premises, and reporting thereon. If the L.A. decline or neglect to act under the recommendations of the report for the space of three months, the house-

Sec.

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holders signing the original request to the L.A. may appeal to the L.G.B., who may order the L.A. to proceed under the provisions of the Act. On receiving the report of the surveyor and engineer, the L.A. shall give copies of their reports to the owners, with notice of the time and place appointed by the L.A. for the consideration thereof, and such owner may attend and make objections to the proposed changes; if such objections are over-ruled, the L.A. are to prepare a plan and specification, and cost of the works required. The clerk to the L.A. is then to give notice to the owners of the premises that the plans and specification of costs, etc., are ready, and where they may be inspected and copied by him or his agent free of charge. The owner may then, within three weeks, give notice, in writing, to the clerk of any objections he may have to the plans, specification, and estimates, and he may appear before the L.A. in support of his objections. Should the plans, etc., be ultimately agreed on between the parties, these shall be the plans and specifications according to which the works shall be executed. If no agreement can be made between the parties, appeal may be made to the Court of Quarter Sessions, and the appeal may even be taken into the Queen's Bench Division of the High Court of Justice. The person aggrieved, or his agent, must, however, give the L.A. one month's notice, in writing, of his intention to appeal against their order, and also state the grounds on which he bases his objections. He must also give security before some justice of the peace that he is prepared to pay all costs of the appeal. The Court having heard both parties, shall make an order as they

sec. deem just, which order shall be binding on both parties. Pending the appeal, no works are to be done. Should the case be decided against the owner, the L.A. may compel him to carry out the work according to the specifications and plans, and should he make default, the L.A. may close the place or cause it to be demolished, or they may execute the work, receiving permission so to do from the Court of Quarter Sessions, and they may charge the expenses, and four per cent. interest on the premises, to be paid before any other charges.

20 Should it be necessary to demolish the premises, the owners may be compelled to do so within three months after the date of the order; or the L.A. may, if he refuse, demolish the premises and sell the materials to pay expenses.

23 Should the owner so prefer, he may simply demolish the premises, but he will not at any future time be allowed to build any premises likely to be injurious to health, and the L.A. may compel him to make such alterations as they deem necessary, or, if he fails, do it themselves, and charge him with the cost.

By the provisions contained in an amending Act, the Artizans Dwelling Act Amendment, 1879 (42 and 43 Vic. c. 64), the owner of any premises specified in an order of the L.A. made under the Act 1868, requiring him to execute any works, or to demolish such premises, may, within three months after service on him of the order, require the L.A., in writing, to purchase such premises. In case the parties do not agree as to the price, the dispute is to be settled by arbitration as provided in the Act. Any one obstructing the

L.A., or any officer of the same, is liable to a penalty not exceeding £20.

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THE ARTIZANS AND LABOURERS DWELLINGS  
IMPROVEMENT ACT, 1875.

38 and 39 Vic. c. 39.

THE object of this Act is to facilitate the removal, re-arrangement, and re-construction of houses, courts, and alleys in poor and densely crowded districts of London, and the larger urban sanitary districts of England and Ireland. It applies to all districts where buildings are closely crowded together, or from want of light or ventilation are liable to give rise to fever or other diseases, and where, from the number of the owners of the property, co-operation in an improvement scheme cannot be ensured.

As the former Act applied to individual dwellings unfit for habitation, so this applies to blocks of buildings in the same condition. The L.A. are first required to decide upon a scheme of improvement which, when properly confirmed, they are to see carried out, by contracting with the owner of the property to erect the required buildings, or they may purchase the land from the several owners, and then sell or let it, binding the purchaser or lessee to carry out the scheme decided upon. If the L.A. build the houses out of the funds provided by the Act, the houses so erected must be sold within ten years, and if the L.A. have acquired land for an improvement scheme, but fail to make use of it for five years, such land may be sold by the confirming authority.

The L.A. for the execution of the Act are, in the City of London, the Commissioners of Sewers; in the rest of the Metropolis, the M.B.W.; and in urban districts in England and Ireland where the population is at least 25,000, the urban sanitary authority, *e.g.*, the Town Council, the Improvement Commissioners, or the Local Board. The Act is not applicable to rural authorities or to urban districts of not less than 25,000 inhabitants.

The confirming authority for the Commissioners of Sewers for the City of London, and for the M.B.W., is by P.O. of the Secretary of State; for U.A., the L.G.B. The M.O.H. of the L.A. is to perform the duties imposed on the M.O.H. under this Act, but without increased remuneration. In the metropolis, a M.O.H., or more than one may be specially appointed by the M.B.W., with the assent of the Secretary of State, and a salary may be paid him, but the M.O.H. of a district board or vestry may act, notwithstanding such appointment. In case of illness, a temporary M.O.H. may be appointed for not more than six months, subject to the approval of the confirming authority. The M.O.H., on complaint by twelve persons rated to the sewer rate, or consolidated rate, leviable by the Commissioners of Sewers to the metropolitan consolidated rate, or to a general district rate, leviable by an U.A. for sanitary purposes, must inspect the area, and make an "official representation" to the L.A., and state whether, in his opinion, an improvement scheme is required. Two justices having jurisdiction in the district may make the necessary representation to the M.O.H. On the report of the M.O.H.,

the L.A. may take action, but no one having any interest in the land may vote on the resolution, under a penalty of £20.

The L.A. may then draw up the proposed scheme, care being taken that provision is made for the accommodation, within the limits of the area or its vicinity, of at least as many persons of the working class as are displaced. If the freeholder is willing to undertake the improvements required, he may do so under the supervision of the L.A.; or, after the scheme has been confirmed by parliament, the L.A. may contract with him to carry it out. If the L.A. resolve not to carry out the scheme, they must make a report to the confirming authority, who may order a local inquiry, and a report by one of their officers. It does not appear that the confirming authority have power to compel the L.A. to act although the report by the inspector be favourable to the scheme. If the scheme be adopted, maps, estimates, etc., must be prepared, and advertisements inserted in the local papers for three consecutive weeks in the months of September, October, or November, stating where such maps, etc., may be seen.

Notices, signed by the clerk of the L.A., must then be served personally on the owners, lessees, and occupiers, stating that the land is about to be taken, and asking if they dissent. A petition for a P.O. is then to be sent by the L.A. to the confirming authority, when that authority may order a local enquiry as to whether the official representation is correct, and also if there are any local objections to the scheme. Notice of this enquiry must be given, and on receipt of the report the confirming authority may issue a

P.O. An Act of Parliament is then to be obtained, and costs may be allowed to persons opposing the scheme whose land is to be taken, the L.A. paying all the expenses of the necessary proceedings.

As soon as the confirming Act is passed, the L.A. must, as a rule, purchase the whole of the land required, or they may agree with the freeholder to carry out a portion of the scheme. Any dispute as to purchase of land is to be settled by arbitration. Upon payment of the compensation, the L.A., if they are to take fifteen or more houses, are to give thirteen weeks notice by placards, etc., of their intention to take the land, and any one obstructing the L.A. is liable to a penalty of £20. Any one dissatisfied with the award of the arbitrator may have the dispute settled by a jury as under the L.C.A. The costs of the arbitration to be paid by the L.A. Where the L.A. have purchased land, they may sell or let the whole or any part of it, but they must not build on it without consent of the confirming authority, but they may clear the ground, and lay out, etc., new streets, which thus become public streets, repairable at large.

The L.A., with the consent of the confirming authority, may modify the scheme even after the confirming Act has been passed, but they cannot increase their expenditure without another P.O.

The L.A. may raise money for the expenses of their scheme by—

(a) Mortgaging the property, the interest being paid by local rates. (b) Mortgaging their local rates in the manner prescribed by the Commissioners' Clauses Act, 1847, or the P.H.A. in the case of U.A. (c) In the case of the M.B.W.,

consolidated stock may be created. (*d*) Borrowing money Sec. from the Public Works Loan Commissioners. (*e*) Borrowing money by issuing debentures, debenture stock, or annuity certificates under the Local Loans Act, 1875.

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## THE PUBLIC HEALTH (WATER) ACT, 1878.

41 and 42 Vict. c. 25.

THIS Act was passed in 1878 for the benefit of Rural Authorities, and came into operation in March, 1879. It enacts that it shall be the duty of every R.A. to 3 see that every occupied dwelling-house within their district has, within a reasonable distance, an available supply of wholesome water sufficient for the consumption and use, for domestic purposes, of the inmates of the house. When on the report of the M.O.H. that any house is not provided with water, the L.A. may take action if they are of opinion that such supply can be provided at a reasonable cost, not exceeding a capital sum the interest on which, at the rate of 5 per cent. per annum, would amount to twopence a week or even threepence a week, as the L.G.B. may, on the application of the L.A., determine under all the circumstances of the case reasonable, and that the expense of providing the supply ought to be paid by the owner, or defrayed as private improvement expenses.

The following proceedings may be taken :—

(*a*) The L.A. to serve notice on owner of the house requiring him, within a period not exceeding six months, to provide a supply of water, and do all the necessary works. (*b*) If at the end of that time the notice is not complied with, the L.A. may serve a second notice giving the owner notice that if after

Sec. one month he is still in default, they will provide, etc., the supply, and that the expenses will in that case be payable by the owner, or as a private improvement expense. (c) If at the end of the month the owner is still in default, the L.A. may provide the supply, and for that purpose may enter upon the premises and execute all works that may appear necessary to them under sections 102-103 of the P.H.A., 1875. (d) Any expenses incurred by L.A. may be recovered in a summary manner from the owner, or be declared by the L.A. to be private improvement expenses. (e) Where the owners of two or more houses have failed to comply with the notices of the L.A., the L.A. may, if it appears to them desirable, and no greater expense would be occasioned thereby, execute works for the joint supply of water to these houses, and apportion the expenses as they deem just. .

The L.A. may, on cause being shown to their satisfaction why the requirements of a notice served by them under this section should not be complied with, withdraw the notice or modify the requirements thereof. Provided that nothing in this section shall be deemed to relieve the L.A. from the duty imposed upon them by the P.H.A. 1875, of providing their district, or any contributory place, or any part of a contributory place therein with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, and a general scheme of supply is required, and such supply can be got at a reasonable cost.

4 An owner may appeal against the notice of the L.A. on any of the following grounds:—

(a) That the supply is not required. (b) That the time limited by the notice for providing the supply is insufficient. (c) That it is impracticable to provide the supply at a reasonable cost. (d) That the L.A. ought themselves to provide a

supply of water for the district or contributory place in which the house is situate, or to render the existing supply of water wholesome. (e) That the whole or part of the expense of providing the supply, or of rendering the existing supply wholesome, ought to be a charge on the district or contributory places.

The owner may, within twenty-one days after service on him of the second notice, address a memorial to the L.A. stating his objections, and in this case the L.A. cannot do any works till ordered to do so by a Court of Summary Jurisdiction, or by the L.G.B. If the objections in the memorial do not include either (d) or (e), the L.A. may apply to a Court of Summary Jurisdiction to empower them to act, and the court shall hear the objections of the owners, and may or may not grant the L.A. power to act. If the objections include (d) or (e), the L.A. shall forward a copy of the memorial to the L.G.B., who may either cancel the requirement of the L.A., or confirm the same with or without modifications. If the L.G.B. confirm the requirement, they shall issue an order authorizing the L.A., subject to modifications, if any, prescribed, to do the work in default of the owner. Any such order may, if the L.G.B. think equitable so to do, apportion the expense of providing the supply between the owner of the house and the L.A. of the district, comprising the contributory place in which the house is situate, or between the owner and any other person or persons. If the L.G.B. cancel the requirement on the grounds that the L.A. ought themselves to provide a supply of water for the district or contributory place in which the house is situate, or to render the existing supply wholesome,

Sec. the memorial shall be deemed to have been a complaint of default made to the L.G.B. against the L.A. under sec. 299 of the P.H.A. 1875.

5 Where the expenses of providing a joint supply of water for two or more houses are apportioned under this Act by a R.A. among the owners of the several houses, notice must be sent to each owner, and if any owner objects, he may within twenty-one days after such notice apply to a J.P., and then the J.P. may summon the L.A. and the other owners to show cause before a Court of Summary Jurisdiction why the apportionment should not be varied, and the Court may either dismiss the application, or make an order varying the apportionment.

6 No house in a R.A. district is to be erected or rebuilt after the passing of this Act unless the owner obtains a certificate from the L.A. of the district that there is provided, within a reasonable distance, a wholesome supply of water as may appear to such L.A., on the report of their S.I. or M.O.H., to be sufficient for the consumption of the inmates for domestic purposes. If the L.A. refuse such certificate, the owner may apply to a Court of Summary Jurisdiction for permission to occupy the house, and the Court shall summon the L.A., and if the Court is of opinion that the certificate ought to be granted, the Court may make an order authorizing the occupation of the house. Any owner contravening this section is liable to a penalty not exceeding £10.

7 The R.A. must from time to time ascertain the condition of the water supply in the district, and may pay the reasonable cost of such inspection. The L.A. may authorise, in writing, any person to make an inspection

if they have reasonable grounds for believing that the water supply to any house is not proper and sufficient, and for the purpose of admission sections 102 and 103 P.H.A. 1875, shall apply. Sec.

Where application is made to the L.G.B. by a L.A. under sec. 62, P.H.A. 1875, to determine what is a *reasonable cost* within the meaning of that section, the Board may, for that purpose, fix by order a general scale of charges for the whole or part of the district of the L.A. Any charge that does not exceed the scale laid down shall be a reasonable charge. 8

Where a R.A. have provided a stand pipe for the supply of water, they may recover water rates or rents from the owner or occupier of any dwelling-house within 200 yards of such stand pipe, in the same manner in all respects as if the supply had been given on the premises. But if a house has a good supply of water, no water rate or rent shall be recovered by the owner or occupier until the water supplied by the L.A. by means of such stand-pipes is used by the inmates. 9

Where a L.A. supply water to an U.A. or contributory place, and an application is made to them by any ten persons rated to the relief of the poor in such U.A., or any five persons in such contributory place, to charge water rates or rents for water supplied, they shall exercise all the powers given by the P.H.A. 1875 for charging rates, etc. 10

The L.G.B. may, by order, invest U.A. with all the powers given to R.A. under this Act. 11

## QUARANTINE ESTABLISHMENTS.

THESE establishments were first appointed by the Venetians, the regulations being made about the year 1484.

The term is derived from the Italian *quaranta*, forty ; forty days or six weeks being the time supposed to be required by those on board a ship sailing from an infected port to purify themselves and their baggage. The first regulations were instituted against the importation of the plague, which was generally supposed to have been introduced into Western Europe from the East. Most other countries have adopted more or less entirely the Venetian practice of detaining travellers from entering their country unless they can show a clean bill of health. The existing quarantine regulations are embodied in the 6 Geo. IV., c. 78, and the different Orders of the Local Government Board issued under its authority. All Orders of Board with regard to quarantine are published in the *Gazette* ; and this publication is deemed sufficient notice to all concerned, and no excuse of ignorance is admitted for any infringement of the regulations. All vessels are furnished with an abstract of the quarantine regulations, of which the following is an epitome, dated July, 1873 :—

*Definitions.*

Art. 1. In this Order—

The term “Ship” includes vessel or boat.

The term “Officer of Customs” includes any person having authority from the Commissioners of Customs.

The term “Master” includes the officer or person for the time being in charge or command of a ship.

The term “Cholera” includes Cholerae Diarrhoea.

The term "Sanitary Authority" has the same meaning as in "The Public Health Act, 1872," now 1875.

The term "Clothing and Bedding" includes all clothing and bedding in actual use, and worn or used by the person attacked, at the time of or during the attack of cholera.

For the purposes of this Order, every ship shall be deemed infected with cholera in which there is or has been, during the voyage or during the stay of such ship in any foreign port in the course of such voyage, any case of cholera.

### *1. Regulations as to Customs Inspections.*

Art. 2. Custom House may detain ship on suspicion, at a certain place appointed.

Art. 3. No one must leave ship so detained.

Art. 4. Notice must be at once sent to "Port Sanitary Authority," or "Sanitary Authority of district" in which the ship is detained.

Art. 5. Detention shall cease as soon as visited by Sanitary Authority, if found free of disease; if not, must be removed to place appointed by Sanitary Authority;

Provided, that if the examination be not commenced within twelve hours after notice, the ship shall, on the expiration of twelve hours, be released from detention.

### *2. Regulations as to Sanitary Authorities.*

Art. 1. Sanitary Authority, with the approval of Chief Officer of Customs, to fix place where vessel shall be detained.

Art. 2. Officer appointed by Sanitary Authority shall visit and examine ship, and Master must permit same.

Art. 3. Medical Officer of Sanitary Authority, or other qualified medical practitioner appointed by Sanitary Authority, to visit ship and report.

Art. 9. Master of ship must moor or anchor ship during the pleasure of Sanitary Authority, and at the place appointed by such authority.

Art. 10. No person must leave ship till after examination and permission.

Art. 11. On report of Medical Officer or Medical Practitioner, persons may land on conditions hereinafter mentioned.

Art. 12. Those suffering from cholera may be removed to hospital, if capable of being removed, and there detained till certified by Medical Officer or Medical Practitioner.

If they cannot be removed they must remain, subject to certificate of Medical Officer, as if in hospital.

Art. 13. Measures to be taken to prevent spread of disease, and Master must assist in the same.

Art. 14. Any one suffering from any diarrhœal or other illness may be detained in ship or sent to hospital for any period not exceeding two days, until it is ascertained whether the illness is or is not cholera. If then suffering from cholera, to be detained as aforesaid.

Art. 15. Any death on board, body must be properly weighted and committed to the deep.

Art. 16. Master must disinfect clothing, etc., under the superintendence of Sanitary Authority.

Art. 17. The Master must cause ship to be disinfected, and if necessary destroy articles infected, by order of Sanitary Authority or Medical Officer.

*The following are the Regulations made by the Local Government Board, in accordance with the requirements of the Canal Boats Act, 1877 (40 and 41 Vict., c. 60).*

For fixing the number, age, and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat.

8. For the above purpose the following rules shall apply :—

(a) In the cabin or cabins of the boat there shall not be less than sixty cubic feet of free air space for each person above the age of twelve years, and not less than forty cubic feet of free air space for each child under the age of twelve years :

Boats built prior to 30th of June 1878, the free air space for each child under the age of twelve years may be not less than thirty cubic feet.

In the case of a "fly" boat, worked by four persons above the age of twelve years, there shall not be less than 180 cubic feet of free air space in any cabin occupied as a sleeping place by any two of such persons at the same time.

- (b) A cabin occupied as a sleeping place by a husband and wife shall not, while in such occupation, be occupied as a sleeping place by any other person of the female sex above the age of twelve years, or by any other person of the male sex above the age of fourteen years.

In the case of a boat built prior to the 30th June 1878, a cabin, occupied as a sleeping place by a husband and wife, may be occupied by one or other person of the male sex above the age of fourteen years, subject to the following conditions :--

- i. That the cabin be not occupied as a sleeping place by any other person than those above mentioned ;
- ii. That the part of the cabin which may be used as a sleeping place by the husband and wife shall, at all times while in actual use, be effectually separated from the part used as a sleeping place by the other occupants of the cabin, by means of a sliding or otherwise movable screen or partition of wood or other solid material, so constructed or placed as to provide for efficient ventilation.

- (c) A cabin occupied as a sleeping place by a person of the male sex above the age of fourteen years shall not, at any time, be occupied as a sleeping place by a person of the female sex above the age of twelve years, unless she be the wife of the male occupant, or of one of the male occupants in any case within the proviso to rule b.

### *Duties of a Medical Officer of Health.*

The following shall be the duties of a medical officer of health in respect of the sanitary district for which he is appointed ; or if he shall be appointed for more than one district, or for a part of a district, then in respect of each of such districts, or of such part :—

1. He shall inform himself, as far as practicable, respecting all influences affecting, or threatening to affect, injuriously the public health within the district.
2. He shall inquire into and ascertain, by such means as are at his disposal, the causes, origin, and distribution of diseases within the district, and ascertain to what extent the same have depended on conditions capable of removal or mitigation.
3. He shall, by inspection of the district, both systematically at certain periods, and at intervals as occasion may require, keep himself informed of the conditions injurious to health existing therein.
4. He shall be prepared to advise the Sanitary Authority on all matters affecting the health of the district, and on all sanitary points involved in the action of the Sanitary Authority or Authorities ; and, in cases requiring it, he shall certify, for the guidance of the Sanitary Authority, or of the Justices, as to any matter in respect of which the certificate of a medical officer of health or a medical practitioner is required as the basis or in aid of sanitary action.
5. He shall advise the Sanitary Authority on any question relating to health involved in the framing and subsequent working of such by-laws and regulations as they may have power to make.
6. On receiving information of the outbreak of any contagious, infectious, or epidemic disease of a dangerous character within the district, he shall visit the spot, without delay, and inquire into the causes and circumstances of such outbreak, and advise the persons competent to act as to the measures which may appear to him to be required to prevent the extension of the disease, and so far as he may be lawfully authorised, assist in the execution of the same.
7. Subject to the instructions of the sanitary authority, he shall direct or superintend the work of the inspector of nuisances in the way and to the extent that the sanitary authority shall approve, and on receiving informa-

tion from the Inspector of Nuisances that his intervention is required in consequence of the existence of any nuisance injurious to health, or of any overerowing in a house, he shall, as early as practicable, take such steps authorised by the Public Health Act, 1875, in that behalf as the circumstances of the case may justify and require.

8. In any case in which it may appear to him to be necessary or advisable, or in which he shall be so directed by the Sanitary Authority, he shall himself inspect and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn bread, or flour, exposed for sale, or deposited for the purpose of sale, or preparation for sale, and intended for the food of man, which is deemed to be diseased, or unsound, or unwholesome, or unfit for the food of man; and if he find that such animal or article is diseased, or unsound, or unwholesome, or unfit for the food of man, he shall give such directions as may be necessary for causing the same to be seized, taken and carried away, in order to be dealt with by a justice according to the provisions of the statutes applicable to the case. This regulation is confirmed by the Public Health Act, 1875. See also Public Health (Scotland) Act, 1867.
9. He shall perform all the duties imposed upon him by any by-laws and regulations of the Sanitary Authority, duly confirmed, in respect of any matter affecting the public health, and touching which they are authorised to frame by-laws and regulations.
10. He shall inquire into any offensive process of trade carried on within the district, and report on the appropriate means for the prevention of any nuisance or injury to health therefrom.
11. He shall attend at the office of the Sanitary Authority, or at some other appointed place, at such stated times as they may direct.
12. He shall, from time to time, report in writing to the Sanitary Authority his proceedings, and the measures

which may require to be adopted for the improvement or protection of the public health in the district. He shall in like manner report with respect to the sickness and mortality within the district, so far as he has been enabled to ascertain the same.

13. He shall keep a book or books, to be provided by the Sanitary Authority, in which he shall make an entry of his visits, and notes of his observations and instructions thereon, and also the date and result of the action taken thereon, and of any action taken on previous reports, and shall produce such book or books, whenever required, to the Sanitary Authority.
14. He shall also prepare an annual report, to be made at the end of December in each year, comprising tabular statements of the sickness and mortality within the district, classified according to diseases, ages, and localities, and a summary of the action taken during the year for the preventing the spread of disease. The report shall also contain an account of the proceedings in which he has taken part, or advised under the Public Health Act, 1875, so far as such proceedings relate to conditions dangerous or injurious to health, and also an account of the supervision exercised by him, or on his advice, for sanitary purposes, over places and houses that the Sanitary Authority have power to regulate, with the nature and results of any proceedings which may have been so required, and taken in respect of the same during the year. It shall also record the action taken by him, or on his advice, during the year, in regard to offensive trades, and to factories and workshops. The report shall also contain tabular statements (on forms to be supplied by the L.G.B., or to the like effect) of the sickness and mortality within the district classified according to diseases, ages, and localities.
15. He shall give immediate information to the Local Government Board of any outbreak of dangerous epidemic disease within the district, and shall transmit to the Board a copy of each annual and of any special report.

16. In matters not specially provided for in this order, he shall observe and execute the instructions of the Local Government Board on the duties of Medical Officers of Health, and all the lawful orders and directions of the Sanitary Authority applicable to his office.
17. He shall observe the directions and regulations issued by the Local Government Board, specified in sec. 134 of the P.H.A. 1875, so far as the same relate to, or concern, his office.

*Duties of Inspector of Nuisances.*

The following shall be the duties of the Inspector of Nuisances as laid down by an order of the Local Government Board, March 1880, in respect of the district for which he is appointed, or if he shall be appointed for more than one district, then in respect of each of such districts:—

1. He shall perform, either under the special directions of the Sanitary Authority, or (so far as authorised by the Sanitary Authority) under the directions of the Medical Officer of Health, or in cases where no such directions are required, without such directions, all the duties specially imposed upon an inspector of nuisances by the Public Health Act, 1875, or by the orders of the Local Government Board.
2. He shall attend all meetings of the Sanitary Authority when so required.
3. He shall, by inspection of the district, both systematically at certain periods, and at intervals as occasion may require, keep himself informed in respect of the nuisances existing therein that require abatement under the Public Health Act, 1875.
4. On receiving notice of the existence of any nuisance within the district, or of the breach of any by-laws or regulations made by the Sanitary Authority for the suppression of nuisances, he shall, as early as practicable, visit the

spot, and inquire into such alleged nuisance or breach of by-laws or regulations.

5. He shall report to the Sanitary Authority any noxious or offensive business, trades, or manufactories established within the district, and the breach of non-observance of any by-laws or regulations made in respect of the same.
6. He shall report to the Sanitary Authority any damage done to any works of water supply, or other works belonging to them, and also any case of wilful or negligent waste of water supplied by them, or any fouling by gas, filth or otherwise, of water used for domestic purposes.
7. He shall, from time to time, and forthwith upon complaint, visit and inspect the shops and places kept or used for the sale of butchers' meat, poultry, fish, fruit, vegetables, corn, bread, or flour, or as a slaughter-house, and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour, which may be therein, and in case any such article appear to him to be intended for the food of man, and to be unfit for such food, he shall cause the same to be seized; and take such other proceedings as may be necessary in order to have the same dealt with by a justice: Provided that in any case of doubt arising under this clause he shall report the matter to the Medical Officer of Health, with the view of obtaining his advice thereon.
8. He shall, when and as directed by the Sanitary Authority, procure and submit samples of food or drink, and drugs suspected to be adulterated, to be analysed by the analyst appointed under the "Sale of Food and Drugs Act, 1875," and upon receiving a certificate stating that the articles of food or drink, or drugs, are adulterated, cause a complaint to be made, and take the other proceedings presented by that Act.
9. He shall give immediate notice to the Medical Officer of Health of the occurrence within his district of any contagious, infectious, or epidemic disease of a dangerous

character; and whenever it appears to him that the intervention of such officer is necessary in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house, he shall forthwith inform the medical officer thereof.

10. He shall, subject in all respects to the directions of the Sanitary Authority, attend to the instructions of the Medical Officer of Health with respect to any measures which can be lawfully taken by him under the Sanitary Acts for preventing the spread of any contagious, infectious, or epidemic disease of a dangerous character.
11. He shall enter, from day to day, in a book to be provided by the Sanitary Authority, particulars of his inspections, and the action taken by him in the execution of his duties. He shall also keep a book, or books, to be provided by the Sanitary Authority, so arranged as to form, as far as possible, a continuous record of the sanitary condition of each of the premises in respect of which any action has been taken under the Public Health Act, 1875, and shall keep any other systematic records that the Sanitary Authority may require.
12. He shall, at all reasonable times, when applied to by the Medical Officer of Health, produce to him his books, or any of them, and render to him such information as he may be able to furnish with respect to any matter to which the duties of inspector of nuisances relate.
13. He shall, if directed by the Sanitary Authority to do so, superintend and see to the due execution of all works which may be undertaken under their direction for the suppression or removal of nuisances within the district.
14. In matters not specifically provided for in this order, he shall observe and execute all the lawful orders and directions of the Sanitary Authority, and the orders of the Local Government Board which may be hereafter issued, applicable to his office.

Sec.

## THE PUBLIC HEALTH (SCOTLAND) ACT, 1867.

30 and 31 Vict. c. 101.

THIS Act, to consolidate and amend the law relating to the public health in Scotland, was passed in 1867, and has three times been amended.

<sup>2</sup> The following Acts are repealed by it :—The Nuisances Removal (Scotland) Act, 1856, except part V.; sections 441 to 447 inclusive of the General Police and Improvement (Scotland) Act, 1862; and also the Sewage Utilization Act, 1865, and the Sanitary Act, 1866, so far as these Acts apply to Scotland. The old General Police Act remains in force in Burghs where it was adopted. But proceedings, etc., taken or begun under the repealed Acts are not affected by the present Act.

<sup>3</sup> The following are the meanings attached to certain words used in the Act :—

“Board,” signifies the Board of Supervision for the relief of the poor in Scotland.

The expression “Medical Officer” shall signify a duly qualified medical practitioner appointed under the Poor Law Act, 1848.

The word “Burgh” shall include, not only Royal Burgh, Parliamentary Burgh, Burgh incorporated by Act of Parliament, Burgh of Barony, and Burgh of Regality, but also any populous place having a Town Council, Police Commissioners or Trustees exercising the functions of Police Commissioners under any general or local Act.

The word “Magistrate” shall include a magistrate or judge having police jurisdiction under the General Police and Improvement (Scotland) Act, 1862, or under any general or local police Act which may be in force.

The word “Owner” shall signify the person for the time entitled to receive, or who would, if the same were let, be

entitled to receive, the rents of the premises, and shall include a trustee, factor, tutor or curator, and in case of public or municipal property, shall apply to the persons to whom the management thereof is entrusted. Sec

The word "Premises" shall include lands, buildings, structures of any kind, streams, lakes, drains, ditches, or places open, covered, or enclosed, and any ship lying in any sea, river, harbour, or other water, or *ex adverso* of any place within the limits of the L.A.

The word "Person," and words applied in this Act to any person or individual, shall apply to and include women, corporations, clubs, societies, statutory boards, or commissioners, joint stock companies, partnerships, joint owners and joint occupants and trustees.

The expression "Common Lodging-House" shall signify a house or part thereof where lodgers are housed at an amount not exceeding fourpence *per* night for each person, whether the same be payable nightly or weekly, or at any period not longer than a fortnight, or where the house is licensed to lodge more than twelve persons.

The expression "Keeper of a Common Lodging-House" shall include any person having or acting in the care and management of a common lodging-house.

The Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts . Amendments Act, 1860, are incorporated with this Act. 4

### *Local Authority and Board of Supervision.*

The following are the Local Authorities under the Act :— 5

In places within the jurisdiction of any Town Council, and not subject to the jurisdiction of Police Commissioners or Trustees as after-mentioned.	}	The Town Council.
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- Sec. In places within the jurisdiction of Police Commissioners, or Trustees exercising the functions of Police Commissioners under any general or local Act. } The Police Commissioners or Trustees.
- In any parish or part thereof over which the jurisdiction of a Town Council or of Police Commissioners does not extend. } The Parochial Board of such parish.

Where any parish is partly within and partly beyond the jurisdiction of a town council, police commissioners, or parochial board, the Board of Supervision may determine which of the several bodies shall be the L.A. within the limits of such parish. Such determination may be recalled or varied from time to time, and all former determinations under the Nuisances Removal (Scotland) Act, 1850, are valid till recalled, or varied under this Act.

- 6 Where a parish or burgh is situated in more than one county, the Board may determine in which county such parish is to be situated for the purposes of the Act, and the jurisdiction of magistrates, sheriffs, etc., shall be regulated accordingly, such determination being, however, recallable at any time.
- 7 All L.A.'s shall be bodies corporate, and have power to sue and be sued, and to hold lands, and also to appoint committees to act for them under certain conditions. It appears that any one member of L.A. may, in the absence of the other members, transact the business of a meeting duly called. In the case of committees, two or more may form a quorum.
- 8 The L.A. may, or when required by the Board shall, appoint one or more sanitary inspectors and inspectors of C.L.D., and a M.O.H., and make by-laws regulating the duties of the above, which by-laws must be con-

firmed by the Board, and the L.A. must appoint convenient places for their offices, and pay their officers a proper salary. The L.A. must send the name and addresses of their officers to the Board, and also state the salary given. Such officers must supply reports to the Board when required, and such inspectors are only removable by the Board, except where the L.A. is the town council, or police commissioners, or trustees in any burgh in *Scotland*, having a local Act for police purposes, or a population of, or above 10,000, when the L.A. may remove them. Upon written application by two or more parties, the Board may require returns, and examine witnesses on oath as to the sanitary condition of any parish or burgh not having a local Act for police purposes, or not having a population of 10,000 and upwards, and also in the two latter cases with the consent of one of Her Majesty's Secretaries of State.

The Board, with the consent of a secretary of state, or the Lord Advocate, may authorise one of its members to hold an inquiry, and examine witnesses, and havers, etc., on oath, all expenses being paid by the Board. The Board may also, with the required consent as above, appoint a member of the Faculty of Advocates not on the Board, and a duly qualified medical man, or an architect, or surveyor, or engineer, to act as commissioners for conducting a special inquiry for a limited period. Such commissioners may examine witnesses as above, and must themselves take an oath *de fidei administratione officii*, administered by a member of the Board, or by one of the judges of the Court of Session or sheriff of the county. All expenses are to

Sec. 12 be paid as stated above. Witnesses may have their expenses paid.

- 13 Any person giving false evidence shall be punished for perjury, and any person refusing to obey the summons of the Board shall be liable for the first offence to a penalty not exceeding £5, and for a subsequent offence not more than £30, nor less than £5. The
- 14 Board may appoint from time to time such officers and clerks as they require, and removable at the pleasure of the Board. The salaries paid are to be approved by
- 15 the commissioners of Her Majesty's Treasury. The sheriffs of Perth, Renfrew, and Ross and Cromarty, so long as they are members of the Board, receive £150 per annum.

### *Removal of Nuisances.*

- 16 The word "nuisance" under this Act shall include—

(a) Any insufficiency of size, defect of structure, defect of ventilation, want of repair or proper drainage, or suitable W.C., or P., or C.P., and any other matter or circumstance rendering any inhabited house, building, premises or part thereof, injurious to health of the inmates, or unfit for human habitation or use. A urinal erected near a house, unless injurious to health, cannot be removed under this Act. (b) Any pool, watercourse, ditch, gutter, drain, sewer, privy, urinal, cesspool, or ashpit, so foul as to be injurious to health, or any well, or other water. (c) Any stable, byre, pigstye, or other building in which any animal or animals are kept in such a manner as to be injurious to health. A by-law ordering that no pig be kept within ten yards of a dwelling-house has been held to be *ultra vires*. (d) Any accumulation or deposit of manure, or other offensive matter, within fifty yards of any dwelling-house within the limits of a burgh, or wherever situated, if injurious to health, or any accumulation of police manure within a quarter of a mile of the municipal boundaries.

of any burgh (excepting the City of *Glasgow*), or any accumulation of deposits from ash-pits, or manure from town or village laid nearer than fifty yards of a public or parish road or dwelling-house. If owner of dwelling-house does not object to manure heap, L.A. may refuse to remove it, but if in a burgh the heap ought to be removed whether injurious to health or not, if not in a burgh only if so injurious, and it is doubtful if farm manure can be removed under this section.

(e) Any work, manufactory, trade, or business, injurious to the health of the neighbourhood, or so conducted as to be offensive or injurious to health, or any collection of bones or rags injurious to health. (f) Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates. The tenant or occupier is the party to be prosecuted in the case of an overcrowded house. (g) Any factory, workshop or workplace, not under the operation of any general Act for the regulation of factories or bakehouses, and not kept in a cleanly state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, as to be dangerous or injurious to health of those employed therein. Overcrowding in any public work over which the L.A. have no control must be dealt with by the Inspector of Factories, to whom the L.A. may give notice of such overcrowding. *See Bakehouse Regulation Act, 1863, and Factory Acts.* (h) Any fireplace or furnace which does not, as far as practicable, consume the smoke arising from the combustible matter used in such fireplace or furnace, and is used within any burgh, for working engines by steam, or in any mill, factory, dye-house, brewery, bake-house, or gaswork, or in any manufactory or trade process whatever. (i) Any chimney (not being the chimney of a private dwelling-house) sending forth smoke so as to be injurious to health: Provided that in places where, at the time of the passing of this Act, no enactment is in force compelling fireplaces or furnaces to consume their own smoke, the foregoing enactment as to fireplaces and furnaces consuming their own smoke shall not come into operation until

Sec. one year from the date of the passing of this Act. (j) Any churchyard, cemetery, or place of sepulchre so situated, or so crowded with bodies, or otherwise so conducted as to be offensive or injurious to health.

17 The L.A., if they have reasonable grounds for believing that a nuisance exists on any premises, may, by their officers, or by any one appointed by them, enter such premises between nine in the morning and six in the evening, or at any hour when the operations supposed to cause the nuisance are going on. If entrance is refused, application may be made, on oath, to a magistrate or sheriff, who may require the person in charge of the premises to admit the L.A. under a penalty, for refusal, of not more than £5, and an order may also be obtained for forcible entry if necessary. If no one be found on the premises, the L.A. may enter without order or warrant and forcibly if need be.

18 Where the existence of a nuisance is ascertained, or having been removed, is likely to recur, the L.A. may apply to the sheriff or magistrate, who may, if satisfied with the evidence before him, order the removal, remedy, discontinuance, or interdiction of the nuisance, provided that in cases under (e) and (g) sec. 16, such application of the L.A. shall be made only on a medical certificate, or on the written application of ten inhabitants of the district; under (h) and (i) application shall be made only to the sheriff; under (j) it shall not be necessary to cite any one as the author of the nuisance, but such application shall be proceeded with only by the sheriff after intimation to the collector of the churchyard or other dues, who may be heard in his defence.

It shall not be necessary to restrict such decree to any special remedy prayed for in the petition, but as the case shall require the author of the nuisance or owner of the premises may be ordained to—

1. Provide sufficient P., or W.C., or A.P. accommodation, means of drainage, or ventilation.

2. To repair, make safe and habitable, or to floor, pave, cleanse, whitewash, disinfect, or purify the dwelling-house, building, or premises.

3. To drain, empty, cleanse, fill up, cover, repair, or remove any pool, ditch, gutter, watercourse, privy, cesspool, drain, or ashpit.

4. To shut up or purify any well, or to provide a substitute for the one complained of.

5. To abstain from any operation which may pollute a well or stream from which the inhabitants obtain water.

6. To cease to use water of any well or stream as a beverage, or in the preparation of human food.

7. To remove the animal, or to carry away the offensive matter.

8. To discontinue the work, trade, manufactory, or business, or prevent the injurious effects thereof.

9. To limit the number of persons who may be accommodated in any house, or part thereof, overcrowded, or the number of separate dwellings into which such house, or part thereof, may be divided or let for use of separate families or persons.

10. To increase the means of ventilation.

11. To shut up or regulate the use of any churchyard, cemetery, or place of sepulture.

12. To do such other acts as are necessary to remove the nuisance complained of.

The sheriff, magistrate, or J.P. may grant an interdict if the nuisance is likely to recur, or he may prohibit the use of any building till it be made fit for habitation. If the decree is not complied with, the 20

Sec. owner, etc., is liable under (a) (b) (c) (d) (f) (i) (j) in sec. 16, to a penalty of not more than 10s. per day during default, and if the interdict be knowingly infringed, a penalty not exceeding 20s. per day may be imposed, and in cases under (e) (g) (h) a penalty not exceeding £5, nor less than £2, for the first offence and £10 for the second, and for each subsequent offence a penalty double the last, but no penalty shall exceed £200 ; provided that under (h), reasonable time may be granted by the sheriff for methods of removal to be  
21 adopted. When structural works are required to remove a nuisance, the sheriff, etc., order the works to be carried out under the superintendence of a person appointed by him, and he may require the L.A. to  
22 supply an estimate of the cost of the work. On the warrant of the sheriff, etc., in cases of non-compliance or infringement of the decree, the L.A. may enter the premises and do the work necessary, and recover the cost from the owner or occupier. If the expenses cannot be recovered, the L.A. must defray them from the assessment, for under any circumstances L.A. must  
23 remove the nuisances. After five days' notice, except where delay would be dangerous to health, or the articles removed are not worth more than £2, the sheriff, etc., may order the immediate removal, sale, or destruction of them. All matters removed by L.A. under this Act may be publicly sold, the L.A. deducting their expenses from the proceeds of the sale and giving any surplus to the owner.

24 Town ashes do not appear to belong to L.A., except so far as they may fall under this section. By this section foul ditches, etc., with the consent of the Board

may be converted by the L.A. into sewers within their district, and for the purpose of outfall or distribution without their district. The L.A. must keep the same in good repair, and may enter any premises for such purpose, paying such damages as the sheriff may award, but no damages are to be paid to the person causing such ditches, etc., to become foul, unless he can show that he had justifiable excuse for so doing. The L.A. may also assess the owners of all premises pouring any material other than pure water into the sewer to cover the expenses of making it, and recover the same in the usual way. Nothing in this Act shall enable any L.A. or other person to injuriously affect—

1. The irrigation of lands in a R.D., or the supply of water used for irrigation.

2. The supply of water required for the purposes of any waterworks established by Act of Parliament, or of the compensation water required to be given by the owners of such waterworks, unless the L.A. shall have previously obtained the consent of the owners.

3. The navigation on, or use of any river, canal, dock, harbour, lock, reservoir, or basin, in respect of which any persons are, by virtue of any Act of Parliament, entitled to take tolls or dues, or the supply of water to the same, or any bridges crossing the same, or any towing thereon.

The L.A. have no power without the consent of the parties interested to execute any works in, through, or under any wharves, quays, etc., but such persons may themselves alter, etc., any sewer, drain, etc., if done with the approval of the inspector of the L.A. The S.I. may, at all reasonable times, enter any premises to inspect and examine *any* articles of food exposed for sale, and if such articles are found unfit

Sec. for food, the same may be seized without any warrant, and if it appear to the sheriff or any two magistrates or justices that the articles are unfit for food, he or they shall, in writing, and signed by him or them, order such food to be destroyed or so disposed of so as to prevent their use; and the person to whom they belong, or who has the custody of them, shall be liable to a penalty not exceeding £10, and shall also pay all the expenses connected with the seizure, etc.

27 Any manufacturer of gas, naphtha, vitriol, paraffin, or dye stuffs, etc., who shall pollute the water of any stream, well, etc., used for domestic purposes, shall forfeit for every offence a sum not exceeding £50.

28 Such penalties, etc., must be sued for during the continuance of the offence, or within six months after it shall have ceased, by the person aggrieved, or by the

29 L.A. A daily penalty of not more than £5 is incurred during the continuance of the offence, whether the former penalty shall have been recovered or not. The penalty begins at the expiration of twenty-four hours' notice from the person whose water is fouled, or from the L.A. Such penalty shall be paid to the L.A. or person giving the notice, and all monies recovered by the L.A. shall—after payment of damage caused by the act for which the penalty is imposed—be applied towards defraying the expenses of executing the Act.

30 The business of a blood boiler, bone boiler, tanner, slaughterer of cattle, horses, or animals of any description, soap boiler, skinner, tallow melter, tripe boiler, or other trade or manufacture injurious to health, shall not, after the passing of this Act, be newly established or enlarged in any building or place within any burgh

or village, or within 500 yards therefrom, without the written consent of the L.A., published in one or more of the local newspapers. Any question arising as to any of the above shall be determined by the Board, and the person dissatisfied may bring the matter before the Board within twenty-one days after the resolution or order of the L.A. has been published as above. Anyone contravening this enactment shall discontinue the business, etc., and be liable for each offence to a penalty not exceeding £50, and a further penalty of not more than 40s. for every day the offence continues. The L.A. may make by-laws to regulate any of the above trades. Sec.

*Prevention and Mitigation of Diseases under Order  
in Council.*

The Privy Council are empowered to issue orders for the prevention of diseases whenever any part of the United Kingdom appears to be threatened with, or is affected by any formidable epidemic, endemic, or contagious disease. Every such order shall be in force for six months, or for a shorter period, and published in the *Edinburgh Gazette*. The orders may direct that the provisions for the prevention of diseases contained in this part (III.) be put in force. When such order has been issued, the Board are vested with certain powers (*post*), and Her Majesty may appoint the sheriff in any county in Scotland, other than *Renfrew, Perth, Ross* and *Cromarty*, to be an additional member of the Board during the subsistence of the order, with salary not exceeding £150 *per annum*. The Board may also appoint a general or superintending medical officer, 31  
32

Sec. with a salary, and also clerks, during the continuance  
33 of the order. The Board have also power to issue regulations to carry out the provisions of the order, and they shall extend to all parts or places in which the provisions of this Act for the Prevention and Mitigation of Disease shall for the time being be put in force, and shall continue for the period comprised in such orders. All regulations must be published in the *Edinburgh Gazette*, as evidence of publication.

34 Every order of Council, and directions and regulations of the Board under this part of the Act (III.), shall be laid before both Houses of Parliament, if Parliament be then sitting, and if not, within fourteen days  
35 of the commencement of the next session. The Board, by such directions and regulations, may provide for—

(a) The speedy interment of the dead. (b) House to house visitation. (c) The dispensing of medicines, and for affording to persons affected by or threatened with such epidemic, endemic, or contagious diseases, such medical aid and such accommodation as may be required. (d) Any such matters or things as may to them appear advisable for preventing or mitigating such diseases.

36 The L.A. shall execute the regulations, and may direct prosecutions for violating the same. The L.A. or their officers, in execution of such directions and regulations, may enter at all reasonable times during the day, and inspect any premises where they have ground for believing that any person has recently died of any such diseases, or that necessity may otherwise exist for executing in relation to the premises any such directions, etc.

37 On the certificate of S.I., M.O.H., or two duly qualified medical practitioners, that any house or part

of a house is so overcrowded as to be dangerous to health, the L.A. shall act under the Common Lodging Houses provisions (post). All orders in council shall extend to ports and arms of the sea within the jurisdiction of the Admiralty, and the Board, under the said orders, may issue directions, etc. for cleansing, purifying, ventilating, and disinfecting, and preventing disease in ships and vessels, as well upon arms and ports of the sea aforesaid, as upon inland waters.

Sec.

38

*General Prevention and Mitigation of Disease.*

The L.A. may provide within their district hospitals or temporary places for the reception of the sick for the use of the inhabitants. By the amending Act (34 and 35 Vic. c. 38, sec. 2, 1871) the L.A. may borrow money for the purpose on the security of the general assessments, the loan to be repaid, interest and capital, within thirty-five years of the date of the loan. The money borrowed must be applied solely for the above purpose, but no officer or member of the L.A. shall personally be liable for the debt incurred. Such L.A., may, with the approval of the Board as to situation and construction, build such hospitals or places of reception, or they may enter into a contract for the use of any existing hospital, or part of one, or for the temporary use of any place for the reception of the sick. The L.A. may enter into any agreement with any person or persons having the management of any hospital for the reception of their sick on payment by the L.A. of such annual sum as may be agreed upon. Two contiguous L.A.'s may combine in providing a common hospital, with the approval of the Board as to

39

Sec. situation and construction, and all expenses shall be deemed as incurred under this Act, and any dispute as to the division of the expenses shall be finally decided  
40 by the Board. The L.A. in each district may provide—

(a) Means for disinfecting, free of charge, all articles of clothing and bedding. (b) A carriage, etc., suitable for the conveyance of infected persons to the hospital from their homes.

The L.A. may also, on the certificate of any qualified medical practitioner, in writing, require the owners of any premises, under penalty of not more than £1 for every day he is default, to disinfect the same within a specified time, and may recover their expenses from the owner or occupier should he fail to carry out their instructions; but where the owner or occupier is too poor, the L.A. may pay the expenses of disinfecting  
41 the premises, etc. The L.A. may—

1. Erect public water closets, privies, and urinals in such situations as they may think fit, and make provision for keeping them in repair, and daily cleansing them.

2. Give notice to owner or occupier of any school, house, factory, etc., where more than ten persons are employed at one time, to provide a sufficient number of w.c.'s or p.'s for each sex, under penalty for non-compliance, with notice, of not more than £20.

42 Any person, without proper lodging or accommodation, or lodged in a room occupied by others besides those attending upon him, or on board any ship, may be removed, on the certificate of a legally qualified medical practitioner, at the expense of the L.A., to a hospital provided for the purpose, and with the consent of the hospital authorities, on the order, at the request of the L.A., of the sheriff, magistrate, or justice. The

L.A. may take means for providing suitable accommodation for the other persons in the house not in attendance on the sick person. Sec.

Places for the reception of dead bodies may be provided at the public expense, and the sheriff, or any magistrate, or J.P., on the certificate of a legally qualified medical man, may order, at the cost of the L.A., the removal to such place of the body of one who has died of any infectious disease, or any dead body which is in such a state as to endanger the health of the inmates of the house. The order may require the L.A., in default of the friends of the deceased, to bury the body within a stated time. All unclaimed bodies must be buried by the L.A., but any expense so incurred may be recovered by the L.A. in a summary manner from any person legally liable to pay. The Poor Law provides for the burying of paupers only. The L.A. having jurisdiction in any burgh or place containing, according to the last census, a population of not less than 1000 persons, may, after publication of the proposed regulations, together with the notice of the intention to apply to the Board, in one or more newspapers in the district for one month, make, with the consent of the Board, regulations for all or any of the following matters, that is to say—

1. For fixing the number of persons who may occupy a house or part of a house, which is let in lodgings, or occupied by members of more than one family.

2. For the registration of houses thus let or occupied in lodgings.

3. For the inspection of such houses, and the keeping the same in a cleanly and wholesome state.

4. For enforcing therein the provision of privy accommoda-

Sec. tion, or water-closet accommodation, and other appliances and means of cleanliness in proportion to the number of lodgings and occupiers, and the cleansing and ventilation of the common passages and staircases.

5. For the cleansing and limewashing, at stated times, of such premises.

6. For the enforcement of the above regulations by penalties not exceeding 40s. for any one offence, with additional penalty not exceeding 20s. for every day which a default in obeying such regulations may continue.

This section only applies to places with a population of 1000 at the *last* census, and does not apply to those mining villages which suddenly spring up in all parts of the country, and where sanitary regulations are most needed.

45 No cellar, vault, or underground room shall be occupied as a dwelling-place unless—

(a) It be seven feet in height from floor to ceiling in cases of houses built prior to the passing of this Act. (b) It be eight feet in height after the passing of the Act, of which one-third of its height is above the level of the street or ground adjoining in the one case, (a) or three feet in the latter, (b) above said level. (c) There must be an open area of two feet six inches wide from the level of the floor of such vault up to the level of the street. (d) A w.c., p. or A.P. must be provided. (e) A window of nine superficial feet clear of the frame, of which one-half must be made to open. (f) There must be a fire-place, chimney, or flue. (g) It must be well drained, the upper part of the drain being at least one foot below the floor.

The L.A. are to give notice to the owners of such  
15 cellars that they are prohibited. After such notice it shall not be lawful to let such places, under a penalty not exceeding 20s. for every day during which such cellar, etc., is so occupied, after conviction of the first offence. In cases of two convictions for overcrowding

or occupation of cellars, etc., within three months, whether the persons so convicted were or were not the same, the sheriff or J.P. may order such premises to be closed for such time as he may deem necessary, and in the case of cellars empower the L.A. to close them permanently if they see fit to do so. Sec.

Any person suffering from any infectious disease entering a public conveyance without notifying to the driver that he is so suffering, shall, on conviction, be liable to a penalty not exceeding £5, and no owner of such conveyance is bound to convey any person so suffering. The fine has been imposed in a case where a person suspected to be suffering from small-pox was sent in a cab without notifying the suspicion to the cabman, and which suspicion was ultimately confirmed. 48

Any person with any infectious disorder exposing himself publicly, or any person in charge of such sufferer causing such exposure, and any owner who does not provide for the immediate disinfection of his conveyance after it has, with his knowledge, been used for the conveyance of an infected person, or any one who, without previous disinfection, knowingly in any way disposes or transmits any infected clothing, etc., shall be liable to a penalty of not more than £5 : provided that no proceedings under this section shall be taken against persons transmitting, with proper precautions, bedding, clothing, etc., for the purpose of having them disinfected. 49

Any person letting houses or apartments in which infected persons have been lodging, unless such house, etc., has been disinfected to the satisfaction of a qualified medical practitioner, as testified by a certificate 50

Sec. given by him and lodged with the S.I., or other person appointed to act for him, shall be liable to a penalty not exceeding £20. An innkeeper shall be deemed to let part of a house to any person admitted as a guest.

51 Any person not removing any manure, etc., or who shall allow such to accumulate after notice, either publicly or otherwise, from the L.A., shall be liable, without further notice, to a penalty not exceeding 20s. per day such manure is not removed, or is allowed to accumulate.

52 Any ship in any harbour, etc., shall be subject to the L.A. of the district within, or *ex adverso* such harbour, etc., is situate; and the sheriff, J.P., etc., having jurisdiction in the district, shall have the same powers as if the ship were a house in the district, and the captain, etc., shall be held as the occupier of such ship.

This section does not apply to Her Majesty's ships, or those of any foreign government.

53 Any ship within three miles of the coasts of Scotland, and not within the district of any L.A., shall be deemed to be within the district of such L.A. as may be prescribed by the Board, and until a L.A. has been prescribed, then the L.A. whose district nearest adjoins the place where such ship is lying.

54 A parish M.O. is allowed to charge for attendance on the sick on board any ship at the general rate of his allowance for his services for the parish, such charge to be paid by the captain on the part of the owners of the vessel. Any medical practitioner, not a M.O., shall be entitled to charge for any service on board, with extra remuneration on account of distance, at the same rates as those charged to private patients of the

same class, and paid as above, and the M.O. or practitioner may bring an action for the recovery of his fees from any person in charge of the ship, and the ship's cargo, etc., shall be subject to a lien for the fees so charged. Any L.A. may, with the sanction of the Board, remove sick persons brought by ships to a hospital, and may make rules imposing a penalty not exceeding £5 on any person committing any offence against such rules. Any ship having infected persons on board shall be under the provisions of the Quarantine Act (6 Geo. IV. c. 78) although such ship has not commenced the voyage, or has come from, or is bound for some place in the United Kingdom. The P.H.A. further does not affect in any way the provisions as to regulations, etc., contained in the Quarantine Act, and the expenses of L.A. shall be deemed expenses under the P.H. Penalties imposed under the Act of George IV. may be reduced by the justices having jurisdiction. The L.A. may defray the cost of vaccinating such persons not being paupers, or the children of paupers, ordered by the Act 26 and 27 Vic., c. 108. It is here intended to apply to persons for whom vaccination cannot be legally paid out of the poor rates, but whom L.A. consider too poor to pay for it themselves. L.A. may provide public recreation grounds, etc. The erection of a public hall is not here contemplated.

### *Regulation of Common Lodging-Houses.*

The L.A. shall keep a register of the names and residences of all keepers of common lodging-houses within their district, and the situation of every such house, and number of lodgers kept therein, and in each

Sec apartment thereof; and the L.A. may refuse to register as keeper of a C.L.H. any person who does not produce a certificate of character signed by three householders of the parish; and, with the approval of the Board, the L.A. may raise or diminish the sum payable per night, but so as not to exceed 6d per night. No house is to be used as a C.L.D. till it has been inspected and registered by the L.A., and any person contravening this enactment shall be guilty of an offence under the Act. This section does not apply to a licensed victualling house regulated by the licensing statutes.

60

61 A copy of the entry made in the register shall be received in all courts as evidence, and any person applying at any reasonable time to the keeper of the

62 register may obtain a copy for twopenney. The L.A. have power to make rules and regulations respecting common lodging-houses as to—

(a) The well ordering of such houses. (b) The separation of the sexes. (c) The fixing the number of persons that may be received in each house and room therein. (d) The cleanliness and ventilation of such houses. (e) The inspection thereof, and the conditions and restrictions under which such inspection may be made. (f) Penalties not exceeding £5 for each offence against the rules, and a continuing penalty not exceeding 40s. after due notice from the L.A.

The L.A. may repeal or alter such rules and regulations; provided that where a penalty is imposed a less sum than the full penalty may be recovered; provided that no regulations shall be in force till confirmed by the Board; provided that no regulations shall be confirmed unless due notice of the intention to apply for confirmation be published in the local papers for one month before the application is made. The regulations,

signed by the chairman of the L.A., must also be open Sec.  
 for public inspection at the office of the L.A. for one  
 month before application is made to the Board, and  
 persons may obtain a copy of them on payment of  
 sixpence for every one hundred words. Such rules 63  
 and regulations, when confirmed, are to be printed and  
 furnished gratis to all keepers of common lodging-  
 houses, to be hung by every keeper in each room in  
 his house; copies may also be supplied at a penny each  
 to ratepayers, and a copy, signed by the secretary of  
 the Board, shall be accepted as evidence in all courts.  
 The L.A. may require a proper supply of water to be 64  
 made to a C.L.H. if such supply can be obtained at a  
 reasonable rate. Notice, in writing, must be given to  
 the keeper to obtain the supply and do the necessary  
 works within a specified time, and in case of non-com-  
 pliance, the L.A. may remove such house from the  
 register.

The L.A. may require keepers of common lodging- 65  
 houses to make, from time to time, a report of every  
 person who resorted to their houses during the prece-  
 ding day or night, and schedules for this purpose shall  
 be furnished by the L.A. The L.A. may remove sick 66  
 persons from a C.L.H. to a hospital, if such removal can  
 be done with safety to the patient, and on the certi-  
 ficate of the M.O. of the parish, or of any qualified  
 medical practitioner, and the L.A. may, to prevent the  
 spread of disease, cause any clothing, etc., to be disin-  
 fected or destroyed, and may pay the owners reasonable  
 compensation for the articles destroyed, such compen-  
 sation being first certified in writing upon a list of such  
 articles. The keeper of a C.L.H. must give immediate 67

Sec. notice to the L.A., M.O.H., I.C.L.H., or I.P., of any case of fever or infectious disease in his house, and the M.O.H. shall at once visit the case and report to the L.A.

68 The keeper of a C.L.H. must when required give free access to any officer of the L.A.

69 The keeper of a C.L.H. shall thoroughly cleanse all the rooms, passages, stairs, floors, etc., to the satisfaction of the inspector, and to the like satisfaction lime-wash the walls and ceilings in the first week of April and October in every year, and at such other times as the L.A. shall especially direct.

70 After conviction for a third offence, the keeper of a C.L.H. may be disqualified for keeping such a house for five years or less, without the previous consent of the L.A. given in writing, such license being granted at the option of the L.A., and with such restrictions as they may deem necessary.

### *Sewers, Drains, and Water Supply.*

71 All sewers shall vest in the L.A. except—

(a) Private sewers. (b) Sewers under the management of persons appointed by the Crown or by Act of Parliament.

Nothing in this Act shall affect the rights of any person or persons to the property or management of any sewers in virtue of any existing local or general police statute.

72 The L.A. may purchase or use sewers, provided that they make compensation for the rights so acquired, and also to the proprietors and occupiers of any lands and heritages which may be damaged by reason of the powers thereby conferred. The L.A. may—

(a) Construct sewers *within* their district and *without* their district for the purpose of outfall or distribution of sewage. (b) May carry such sewers through, across, or under any turnpike or other road, or under any cellar or vault which may be under the foot pavement or carriage way of any street. (c) After reasonable notice in writing, on the report of the surveyor, carry sewers into, through, or under any lands whatsoever. (d) From time to time enlarge, lessen, alter, arch over, or otherwise improve or close up or destroy all sewers vested in them. Sec.

Provided that no nuisance is created by any of the above operations, and if any one is deprived of the use of any sewer, the L.A. shall provide another in its place. The L.A. must keep their sewers so as to be free from causing a nuisance ; and for the purpose of cleansing and emptying them, may construct above or under ground reservoirs, sluices, or other necessary works, and may empty such sewers into the places provided either within their district or without their district for the purpose of distribution or outfall. Such sewage may be collected and sold provided no nuisance is created.

The L.A. may dispose of their sewage to any person, provided that no contract for the supply of sewage be for longer than five years, unless with the authority of the Board, and not for a longer period than twenty-five years ; and the L.A. may contract for, purchase or take on lease, any lands, buildings, engines, materials, or apparatus, for the purpose of receiving, storing, disinfecting, or distributing sewage. 74

If the owner or occupier of premises refuses access to the L.A. to perform any operation connected with surveying, taking levels, ascertaining the course of 75

Sec. drains, etc., the L.A. may apply to the sheriff, who, if no sufficient cause to the objection be shown, shall grant warrant to the L.A. to enter and do the works or operations above mentioned.

76 This section has been modified by the P.H. Amendment Act, 1882 (46 Vic. c. 11). Special drainage and special water supply districts may be altered, combined, and modified by—

1. Enlarging or limiting the said boundaries.
2. Combining two or more such special drainage or special water supply districts, or portions thereof.
3. Enlarging or limiting the said boundaries, and combining two or more such special drainage districts, or water districts, or portions thereof.
4. The L.A., before meeting to make alterations in such districts, must first receive a requisition made in writing, signed by at least ten of the inhabitants of the district of the L.A.; and after the receipt of such requisition, the L.A. must meet, and twenty-one clear days' notice of the meeting must be given to the members of the L.A.
5. If the L.A. resolve upon such alteration of boundaries, its resolution shall be advertised, and within ten days after the date of the resolution any person may appeal to the sheriff, not being the sheriff-substitute, resident in the district, and he may approve or disapprove of such resolution. If he disapproves he may find—(a) That no special drainage district be formed; (b) May enlarge or limit the special district as defined by the resolution of the L.A.; (c) May find that a special drainage district should be formed, and define its limits.

When the decision is made by the sheriff-substitute appeal may be made to the sheriff.

Provided that if the sheriff or sheriff-substitute, as the case may be, shall disprove of the resolution of the L.A., he may vary the same, but only with the consent of the L.A. The provisions of this Act shall apply to

special water districts whether formed before or after the commencement of this Act, or altered or combined or altered and combined under this Act, 1882. Sec.

Any owner or occupier of premises in the district of a L.A., liable to general or special sewage assessment, may drain into the sewers of L.A. on giving twenty days' notice, and complying with the regulations of the L.A. 77

Any owner or occupier of premises beyond the limits of L.A., or within such limits, but not liable as in the last section to assessment, may, on agreement with L.A., drain into their sewers, any dispute being settled by the sheriff. 78

Any person who shall make any drain into any sewer of the L.B. without the permission of the L.A., shall be liable to a penalty not exceeding £5, besides the expenses of shutting up such drain. 79

If the expense connected with sewage or drainage, or falling under Part VI., exceeds £30, the L.A. shall procure an estimate of the probable expenses for making and yearly maintaining the same from their surveyor. The surveyor must also give a report as to the most advantageous mode of constructing such work, whether under a contract for constructing the same merely, or a contract for construction and maintaining it in repair during a given term of years. Unless with the consent of L.A., no building shall be erected over a sewer belonging to the L.A., and no vault, arch, or cellar, shall interfere with a sewer. 80 81

All sewers and drains, whether public or private, must be trapped and ventilated so as to prevent stench or deleterious exhalations. 82

Sec. 83 Owners or oeeupiers of distilleries, manufactories, and other works, shall be compelled, where possible, to provide plaees for the deposit of refuse injurious to health, and to use the best practieal means for rendering the same inoffensive, or innoxious, before diseharging it into any river, stream, ditch, or other ehannel. It has been held that under this seetion, "offensiveness" is to be construed as distinet from "injury to health," and that it is not neecessary, if pollution is offensive, to prove it is injurious to the health of persons in the vieinity.

84 The L.A., if they deem it neecessary, shall, with the consent of the Board, discharge their sewers below high water mark (without prejudice to any question as to the right of the foreshores), and eonstruet the requisite  
85 works for the purpose. The L.A. may, by notice to the owner of any house, distillery, manufactory, etc., or enclosure, or ereetion for keeping live stoek in their distriet, require him to provide a suitable drain, and connect it with any sewer used by L.A., and not being more than 100 feet from the premises. If no sewer is not so situated, he may provide a eesspool, not being under any house, and approved by the L.A. If he fails to comply with the demand of the L.A., the S.A. may do the work, and recover their expenses in a summary manner.

86 The L.A. may borrow money for the purpose of making, enlarging, or eonstrueting sewers on the security of speeial or general assessments, the ehairman and two members of the L.A. signing the bonds, but no member or officer of the L.A. shall be personally  
87 liable for the repayment of money borrowed. Two or

more Local Authorities may, with the consent of the Board, combine for the purpose of sewerage or drainage for the benefit of their respective districts, and any expenses shall be deemed to be expenses incurred by them in execution of works within their district. Sec.

In burghs having a population of 10,000 or upwards, or having a local Act for police purposes, the L.A. may contract or arrange with any Water Company established by Act of Parliament for a supply of water, or where there is no such company, themselves provide a supply of water for sanitary or other public purposes. 88

In burghs with a population less than 10,000 with General Police Act (1862) in force, the Police Commissioners may take action in regard to water supply under that Act, or as L.A. under the P.H.A.

With respect to the improvement of burghs having a population of less than 10,000 inhabitants, and not having a local Act for police purposes, and with respect to parishes (exclusive of any parts of such parishes as are situated within the district of any L.A., other than the parochial boards of such parishes), the L.A. may acquire and provide, or arrange for a supply of water for the domestic use of the inhabitants, and for that purpose may— 89

(a) Conduct water from any lake, river, stream, and dig wells. (b) Make and maintain reservoirs. (c) Purchase, take upon lease, hire, construct, lay down, and maintain such waterworks, pipes, and premises. (d) Execute all such works, matters, and things as shall be necessary and proper for the aforesaid purposes. (e) Themselves furnish a supply of water. (f) Contract or arrange with any other person to furnish the same.

For any of the above the L.A. shall have all the

powers, etc., possessed by promoters of undertakings under the Lands Clauses Acts, provided that they make reasonable compensation for the water so taken, and for any damage done to lands in the exercise of their powers. The words "lands" and "land" in the said Acts, and in this Act, shall include "water," and the right thereto. The L.A. in any burgh, parish, or district, shall not provide or supply water where there is a company authorized to supply water; unless the L.A. purchase the right from the company. The L.A. shall compel the owner of a house within their district without a water supply to provide one, and do the necessary works for the purpose. If the L.A. have more water than they require for the domestic purposes of their district, they may use the surplus for—

(a) Public baths and washhouses. (b) For trading or manufacturing purposes, on such terms as may be agreed upon between the L.A. and the parties supplied.

Provided that the L.A. do not charge the parties obtaining the same with *special water assessment*, and also for the supply of water obtained by them, but the L.A. may charge either by assessment on the premises or by special contract. The L.A. may cause all existing public cisterns, wells, reservoirs, etc., used for the gratuitous supply of water to the inhabitants to be kept full, and they may provide water gratuitously for public baths, etc., established otherwise than for private profit, or supported out of any burgh rates. For the regulations as to the formation of a special water supply district, see sec. 76. The L.A. have power to borrow money to carry out any of the provisions of this section on the security of their special or general assessments,

and the loan may be repayable either in one sum or by Sec. equal instalments of capital and interest, extending over not more than thirty years. Money borrowed must be applied only for the purposes for which it is borrowed.

The following regulations shall be observed with 90 respect to the purchase and taking of land, otherwise than by agreement by L.A., for the purposes of this Act. The L.A., before putting in force the Lands Clauses Acts, shall—

(a) Publish once at least in three consecutive weeks of *November*, in a local paper, a notice of their intention to take land, and the quantity and the purpose for which it is to be taken, also naming a place where a plan of the proposed works may be seen at all reasonable hours. (b) In December serve notices on the persons owning or occupying the land to be taken, demanding a reply of assent or dissent. (c) The notice to be served (1) personally on the party on whom it is required to be served, or his agent if absent; (2) By leaving the same at the usual or last known abode of such party, (3) or by registered letter by post.

The above being duly performed, the L.A. may next present a petition to one of Her Majesty's Principal Secretaries of State, containing a full statement of these requirements, etc., together with the names of those who have assented or dissented, or returned no answer, and asking to put in force the powers of the L.C.A. The Secretary of State may either consider or dismiss the petition, or cause an enquiry to be made. After enquiry he may grant a P.O. with such alterations as he may think fit, but no P.O. shall have any force till confirmed by Parliament. All costs, etc., to such an amount as the Commissioners of Her Majesty's.

- Sec. Treasury think proper to direct, shall become a charge upon the assessment or special water supply assessment levied in the district, or special water supply district, repayable to said Commissioners by annual instalments
- <sup>91</sup> not exceeding five, with five per cent. interest. The Public Works Loan Commissioners may lend such sums as may be recommended by one of Her Majesty's Secretaries of State for purposes mentioned in sec. 196 of the Police and Improvement (Scotland) Act, 1862.
- <sup>92</sup> Two or more Local Authorities may combine for the execution and maintenance of works as to water supply.

The other portions of this Act merely deals with assessments, and the enforcement of and procedure under this Act.

# QUESTIONS.

## INTRODUCTORY.

Give a short sketch of the Sanitary Law in England up to the passing of the P.H.A., 1875. Give the constitution of the L.G.B. What are the functions of this Board? When L.A. is remiss in their duties, how may the Board act? On what matters may L.G.B. cause enquiries to be made? What are "Orders?" What are "Provisional Orders?" How do the latter differ from the former? What force have Provisional Orders when confirmed. For what purposes may L.G.B. grant provisional orders? How is the county divided for sanitary purposes by the P.H.A., 1875? Mention the names of the several authorities? How are Local Boards elected? How may a member of L.B. become disqualified for holding his seat? How are R.A.'s elected? What are their duties? How is the Metropolis constituted? How is the City of London governed for sanitary purposes? What are the constitution and powers of the Metropolitan Board of Works? See.

## PUBLIC HEALTH ACT.

What Acts are not incorporated with the P.H.A.? Does the Act apply to Scotland or Ireland? Give the meaning of some of the most important terms used in the Act. How is a Court of Summary Jurisdiction constituted?

## PROVISION WITH REGARD TO SEWERAGE AND DRAINAGE.

To whom does a sewer belong?

13

How does change of ownership affect users of sewers?

14

What must L.A. avoid in constructing sewers? For what are L.A. liable? In what cases must an appeal be made to Parliament? On whom does the maintenance and making of sewers devolve? Who may take action if L.A. fail in their duty to provide sewers? What power is given to L.G.B.? What is the liability of L.A. with regard to the construction of sewers of sufficient size, and also their maintenance? 15

What powers have L.A. with regard to the carrying of sewers under roads, streets, and private lands?

16

- Sec. 17 What are the powers of L.A. with regard to the pollution of streams? Do these include sewers within or without district? What are the liabilities of L.A. with regard to discharging sewage into watercourses? What are the privileges of riparian proprietors? In applying for an injunction to restrain L.A., what precautions are necessary?
- 18 Under what conditions may L.A. alter, enlarge, or close up any of these sewers?
- 19 In what condition must all sewers be kept by L.A.? Must sewers be ventilated?
- 20 May L.A. provide a map of their sewerage system? To whom is such map open for inspection?
- 21 What steps must an occupier or owner take before he opens his drains into the sewers of L.A.? What is the liability of persons using sewers for specific purposes? What penalty is imposed for non-compliance to regulations of L.A.?
- 22 On what terms may owners and occupiers outside district of L.A. use their sewers?
- 23 What power has L.A. to enforce drainage of undrained houses? In what way may L.A. act to lessen expense of undrained houses? What result may follow if occupier fail to comply with demand of L.A.?
- 24 What power has L.A. to compel houses, which are already drained, to be drained into new sewers?
- 25 Is there a penalty for building or re-building houses in U.D. without drains? If a convenient drain be distant more than 100 feet from a house, what may be substituted for it, and under what conditions?
- 26 May a building be erected over a sewer? Is it allowable to make a cellar under the carriage way of any street? What penalties are incurred under this section? Does this section apply to R.A.? What is a building?

#### DISPOSAL OF SEWAGE.

- 27 What power has L.A. with regard to the disposal of sewage? How is such power restricted with regard to the land of private persons? What is the law with regard to soakage into wells from cesspool?
- 28 May sewers of one L.A. communicate with those of another L.A.? What provisions are made as to storm water?
- 29 How may L.A. deal with land appropriated for sewage purposes?
- 30 What power has L.A. to share expenses with private individual? May L.A. become shareholders in sewage works?

Under what Act may L.A. provide funds to pay expenses of sewage works? Do sewage works come under the term improvements of land? What else? Sec. 31

### SEWAGE WORKS WITHOUT DISTRICT.

What steps must L.A. take before commencing sewage works without their district? 32

How must affected parties proceed to prevent proposed sewage works of L.A.? 33

What is the procedure in cases of objection to works? 34

### PRIVIES, WATERCLOSETS, ETC.

What are the liabilities of persons building houses without w.c., E.C., etc.? 35

What powers have L.A. with regard to the supply of w.c., etc.? 36

What are the provisions of the Act with regard to earth-closets? What is an earth-closet? 37

What is the law with regard to w.c., etc., accommodation for factories? Does it apply to R.A. 38

Have L.A. power to provide public necessities? 39

What are the duties of the L.A. with regard to w.c., E.C., etc.? 40

Under what circumstances may officers of L.A. enter premises for examination of drains? How may L.A. compel admission to be granted? During what hours may they enter? On whom does the power rest to determine the nature and extent of the work required? Who is liable for the repair of house drains? What is the law with regard to furnished houses? 41

### SCAVENGING AND CLEANSING.

On whom does the responsibility rest for the proper scavenging and cleansing of streets and houses? How are the profits for the sale of rubbish to be applied? 42

May L.A. be fined for non-removal when required? 43

Have L.A. powers to make by-laws for the removal of rubbish when they have not themselves undertaken to remove it? What has been held to be, and not to be rubbish or refuse? 44

On whom does the duty rest to provide receptacles for rubbish? 45

On the certificate of whom may L.A. act with regard to the purification of houses? What are the duties of M.O. with 46

Sec. regard to premises dangerous to health in a district of 10,000 or more persons, and in a U.D. of 20,000 inhabitants?

- 47 To what penalties are persons liable who cause a nuisance by keeping swine, allowing stagnant water to collect in any cellar or dwelling-house, or by the overflow of a closet or a cesspool?

#### OFFENSIVE DITCHES AND COLLECTIONS OF MATTER.

- 48 How may L.A. compel adjoining L.A. to keep a ditch or watercourse clean? What is the law with regard to such boundaries?

- 49 On non-compliance with request of S.I. to remove filth, how may L.A. act to enforce compliance?

- 50 What power have L.A. to enforce removal of manure from mews and other premises? How may notice be given?

#### WATER SUPPLY.

- 51 What powers have L.A. to provide a water supply? If L.A. are in default, how may they be compelled to provide supply? What are the limits of the powers of L.A., and what precautions must they take in providing a supply of water? To whom does the water in streams belong? To whom does water flowing underground belong? What is the law with regard to the percolation of sewage from a cesspool into a well? What are the rights of riparian proprietors? Who is the proprietor of surface water flowing in no definite channel over land?

- 52 What steps must L.A. take before commencing water works? Can L.A. commence water works if there is an existing company?

- 53 What steps must L.A. take before commencing to construct reservoirs? In case of objection to proposed works, what action may L.A. take?

- 54 What restrictions are placed on L.A. as to water mains? What is the law as to the rating of mains to the poor rates?

- 55 What duties are imposed on L.A. in supplying water?

- 56 Has L.A. power to charge water rates? How are the rates assessed? Has L.A. power to recover in case of default? Is the water rate a special rate? Why? May L.A. make a profit on their water supply?

- 57 What Waterworks Acts are incorporated with the P.H., 1875, under this section? How does the incorporation affect L.A.? What are the incorporated clauses of the Waterworks Act 1847?

May L.A. supply water by measure? By whom are meters to be provided and kept in repair? May L.A. inspect meters?	Sec. 58
How may disputes as to water supplied by meter be settled?	59
What penalty is there for injuring meters? What is the evidence of fraud on the part of the consumers? Can L.A. compel the adoption of meters?	60
May L.A. supply water to adjoining district? Whose sanction has first to be obtained? How are disputes to be settled?	61
Under what circumstances may L.A. require houses to be supplied with water? On what terms must such supply be made? May the limit of charge be extended? What are the provisions of the P.H.W.A., 1878, with regard to this section?	62
Under what terms may water company supply water to L.A.?	63
In whom do eisterns, wells, etc., for the gratuitons supply of water, vest? Are there any restritions imposed on L.A. as to trespass for colleeting water?	64
What are the powers of L.A. to supply water to baths, manufacturers, etc.? What is implied by the term, domestic use?	65
Have U.A. power to supply fire-plugs?	66
What arrangements may L.A. make with the Universities of Oxford and Cambridge?	67

#### PROVISIONS FOR THE PROTECTION OF WATER.

What penalties are imposed for polluting water with gas washings? How may such penalties be enforced?	68
May L.A. take proceedings to prevent the pollution of streams?	69
When may L.A. close wells? How far has the power of L.A. been extended in this section?	70

#### REGULATION OF CELLAR DWELLINGS.

What are the restrictions with regard to the oecupation of cellar dwellings? Are R.A. and U.A. included under the provisions of this section?	71
What regulations are in force as to the occupation of cellar dwellings?	72
What penalty is imposed on persons letting cellars contrary to the provisions of the Act?	73
What constitutes occupation?	74
What may be done in the case of two convictions?	75

Sec.

## COMMON LODGING-HOUSES.

- 76 By whom must a register of lodging-houses be kept? What is held as sufficient evidence of registration? What is the cost of such copy of registration, and to whom may it be given?
- 77 Who may or may not keep a common lodging-house? What is the law in case of the death of the proprietor?
- 78 When, and why, may L.A. refuse to register a common lodging-house?
- 79 What are the duties of the proprietor of a common lodging-house?
- 80 May L.A. make by-laws for the regulation of C.L.H.?
- 81 Who may enforce water supply to C.L.H.? What may follow non-compliance with order of L.A.? In what do the requirements of this section differ from those of section 62?
- 82 How are C.L.H. to be kept?
- 83 May L.A. require reports from keepers of C.L.H. receiving vagrants?
- 84 What is the duty of a keeper of a C.L.H. with regard to infectious diseases?
- 85 May L.A. have free access to C.L.H.?
- 86 Name offences which keeper may be guilty under the Act?
- 87 On whom does evidence rest when keeper claims that inmates are members of his family?
- 88 What is the law with regard to a third conviction for breach of the provisions under this Act?
- 89 What is a common lodging house?

## BY-LAWS AS TO HOUSES LET IN LODGINGS.

- 90 By whom may L.A. be empowered to make by-laws with regard to lodging-houses? Does this section apply to C.L.H.?

## NUISANCES.

- 91 What is the definition of a nuisance at common law? How are nuisances divided? What are the means of remedy in private and public nuisances? What must be shown in the case of a nuisance according to the P.H. 1875? Can L.A. take action against nuisances from alkali works? How are these provided for?
- 92 What is the duty of L.A. with regard to the inspection of their district? Who may compel L.A. to inspect district for the abatement of nuisances?
- 93 Who may give L.A. notice of a nuisance?

What action may L.A. take on information as to the presence of a nuisance? Under what circumstances may L.A. abate nuisance? Who is an "owner?" Sec. 94

How may L.A. act when the nuisance is abated, but is likely to recur? 95

What power has a court of summary jurisdiction with regard to abated nuisances likely to recur? 96

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